

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING, & TECHNOLOGY COMMITTEE
MEETING AGENDA**

April 18, 2025 – 12:00 p.m. to 1:30 p.m.

Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Gardner
	<u>Rules back from public comment:</u> <ul style="list-style-type: none"> • CJA 1-101. General definitions – Rules of construction • CJA 1-205. Standing and ad hoc committees • CJA 3-306.04. Interpreter appointment, payment, and fines • CJA 4-510.03. Qualifications of ADR providers 	Action	Tab 2	Keisa Williams
	CJA 3-117. Committee on Court Forms	Action	Tab 3	Janine Liebert Pleasy Ways Judge Chelsea Koch
	CJA 3-203. Domestic Relations Special Masters (NEW)	Action	Tab 4	Aubrey Staples Stacy Haacke
	CJA 3-403. Judicial branch education	Action	Tab 5	Lauren Andersen
	Appendix A. Justice Court Nominating Commissions Procedure Manual	Action	Tab 6	Jim Peters
	<u>HR Policies:</u> <ul style="list-style-type: none"> • CJA 3-402. Human resources administration • HR 11-1. Disciplinary Action • HR 17-9, 3-5, 17-1. Grievance Procedures • HR 17-5, 17-8. Mediation • HR 7-3. 7 Hour Annual Leave Accrual • HR 8-3. Exercise Release 	Action	Tab 7	Bart Olsen
	CJA 4-202.08. Fees for records, information, and services	Action	Tab 8	Daniel Meza-Rincon Keri Sargent Keisa Williams
	<u>Legislative session updates:</u> <ul style="list-style-type: none"> • CJA 4-202.02. Records classification • CJA 4-510.06. Cases exempt from ADR rules • CJA 4-613. Jail prisoner transportation • CJA 4-202.03. Records access 	Action	Tab 9	Keisa Williams Stacy Haacke
1:00	Technology report/proposals	Discussion		Brody Arishita
1:25	Old Business/New Business			
1:30	Adjourn			

2025 Meetings:

June 6, 2025	August 1, 2025	October 3, 2025
July 11, 2025	September 5, 2025	November 7, 2025

TAB 1

Minutes

March 7, 2025

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING and TECHNOLOGY COMMITTEE
MEETING MINUTES**

DRAFT

Webex video conferencing
March 7, 2025 – 12 p.m.

MEMBERS:

PRESENT

EXCUSED

Judge James Gardner, <i>Chair</i>	✓	
Justice Paige Petersen	✓	
Judge Angela Fonnesbeck	✓	
Judge Jon Carpenter	✓	

GUESTS:

Daniel Meza-Rincon
Janine Liebert
Keri Sargent
Meredith Mannebach
Jace Willard

STAFF:

Keisa Williams
Brody Arishita
Cindy Schut

(1) Welcome and approval of minutes:

Judge Gardner welcomed the committee members to the Policy, Planning, and Technology Committee (PP&T). PP&T considered the minutes from the February 7, 2025 meeting. With no changes, Judge Fonnesbeck moved to approve the minutes as presented. Judge Gardner seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- **CJA 4-202.06. Response to request to access or classify a court record**
- **CJA 4-202.07. Appeals**
- **CJA 4-403. Electronic signature and signature stamp use**

Rule 4-403 and 4-202.07 were removed from the Judicial Council's agenda in February and sent back to PP&T for further discussion.

Rule 4-202.06

Ms. Williams proposed amendments to clean up and clarify language in rule 4-202.06.

The committee took no action on rule 4-202.06.

Rule 4-202.07

The Council sought clarification on paragraph (1) of rule 4-202.07, specifically regarding notice to individuals whose interests are protected by closure. Ms. Williams clarified that rule 4-202.07 governs appeals related to requests for administrative court records, aggregate court records, and court records for the purpose of research. Those requests are governed by rules 4-202.05 and 4-202.06 and are made to the custodian of the record, which will always be someone in the judiciary. In short, the onus is on the

Administrative Office of the Courts to determine whose interests are protected by closure and to give them notice. Following discussion, PP&T made no further amendments to the rule.

Judge Fennesbeck moved to recommend to the Judicial Council that rule 4-202.07 be approved as final with a May 1, 2025 effective date. Judge Carpenter seconded the motion. The motion passed unanimously.

Rule 4-403

Following a round of public comments and by motion of PP&T, the proposed amendments to 4-403 were sent to the Judicial Council for final approval in February. At the request of Judge McCullagh, the rule was removed from the Council's agenda for further discussion by PP&T.

Judge McCullagh provided feedback and proposed language to PP&T, with the goal of making the practice contemplated in rule 4-403 consistent throughout the juvenile, district, and justice courts. Following a discussion, the committee adopted Judge McCullagh's proposed language, with minor, non-substantive changes.

With no further discussion, Judge Carpenter moved to send rule 4-403 to the Judicial Council with a recommendation that it be posted for a 45-day public comment period. Judge Gardner seconded the motion. The motion passed unanimously.

(3) CJA 4-206. Exhibits

This rule was recently amended to reflect statutory changes concerning the receipt, retention, and exposal of court exhibits. Primarily, the amendments referred parties to the statute regarding their retention obligations in criminal cases and required that all exhibits in the court's custody in criminal cases be given to the prosecuting agency. Court staff received feedback expressing concerns about giving bulky or sensitive exhibits that require law enforcement chain of custody and defense exhibits to prosecuting agencies. Jace Willard explained the proposed amendments in paragraphs (2)(A), (3), and (5) made in response to that feedback. Mr. Willard noted that properly interpreted, the changes are in compliance with Utah Code section 77-11c-102.

Following further discussion, Judge Gardner moved to recommend to the Judicial Council that the proposed amendments to rule 4-206 be approved as final with an expedited effective date, followed by a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.

(4) URE Committee

The Supreme Court's Advisory Committee on the Utah Rules of Evidence (URE) is requesting to add a feature to the court's website to make it easier to track changes to the rules and their source. Right now, other than the committee notes in the rules, someone looking for this information can search the approved amendments page. Sometimes the posts on that page include a note regarding associated legislative amendments, but that is rare. You can search by rule number if a tag was included in the post, which should bring up all amendments to the rule. The posts include dates and redlined changes. In addition, the committee webpages allow you to search committee meeting agendas and materials for changes regarding specific rules tagged on each post. However, we don't have a feature similar to the

legislature's historical code page. The URE Committee is requesting the new feature, but it would be pertinent to all court rules, not just the URE.

Brody Arishita discussed the feasibility of the request with Jason Ralston who manages the court's website and noted that some older versions of the rules are already stored in the system. The Committee discussed referring the matter to the Technology Advisory Subcommittee (TAC) who could create prototypes and prioritize the request in accordance with TAC's guidelines. TAC could start with the URE and, once functionality is built, PP&T could decide to add other rules depending on prioritization and cost.

After further discussion, Justice Petersen moved to refer the request to add features to the court's website to TAC. Judge Fannesbeck seconded the motion. The motion passed unanimously.

(5) CJA 4-111. Priority of post-conviction petitions in capital cases

At its February meeting, the Judicial Council sent rule 4-111 back to PP&T to discuss whether there is continued utility in expediting procedures in capital cases above all other cases. If so, the Council asked PP&T to determine whether the policy needs to be memorialized in rule. If not, the rule can be repealed.

The Committee discussed whether removing the language in paragraph (1) and keeping an internal policy of expediting post-conviction petitions would be sufficient. The Committee determined that there is value in keeping the language as a reminder that those cases should be prioritized to prevent lengthy delays.

Judge Gardner moved to recommend to the Judicial Council that CJA rule 4-111 be approved for a 45-day public comment period. Justice Petersen seconded the motion. The motion passed unanimously.

(6) HR Policies. Due to scheduling conflicts, HR policies were moved to a future date.

Technology report/proposals:

Mr. Arishita will meet with the clerks of court on March 12th to review the essential court functions that could be affected in the event of an emergency. There will also be a separate meeting with the justice court clerks of court and Mr. Arishita will report back to PP&T at a later date.

Old Business/New Business:

Keri Sargent asked about the status of the amendments to rule 4-202.08 that were tabled at March's PP&T meeting. Ms. Williams noted that the Salt Lake District Attorney's office was able to get a legislator to sponsor a bill waiving all fees for government agencies, but must wait until the legislative session ends to see if the bill passes.

Adjourn: With no further items for discussion, the meeting adjourned at 12:58 p.m. The next meeting will be held on April 18, 2025, at noon via Webex video conferencing.

TAB 2

Back from Public Comment:

CJA 1-101. General definitions – Rules of construction

CJA 1-205. Standing and ad hoc committees

CJA 3-306.04. Interpreter appointment, payment, and fines

CJA 4-510.03. Qualifications of ADR providers

Notes: No public comments were received on rules 1-101, 1-205, 3-306.04, and 4-510.03.

Rule 1-101. The proposed amendments clarify and update uniform definitions in the Code of Judicial Administration.

***I am requesting to hold this rule for a future meeting to give me an opportunity to conduct a more in-depth search for defined terms using the new “Notebook” application.*

Rule 1-205. The proposed amendments:

- (1) add community representatives who are knowledgeable about the needs of self-represented litigants to the Court Facility Planning Committee, Committee on Children and Family Law, Committee on Resources for Self-represented Parties, Language Access Committee, Committee on Court Forms, and Committee on Fairness and Accountability;
- (2) require the chair of each standing committee to conduct a committee performance assessment every three years and report the results to the Management Committee; and
- (3) make non-substantive formatting changes.

Rule 3-306.04. The proposed amendments:

- (1) require parties to provide a written transcript of recorded evidence involving a spoken language other than English;
- (2) with limited exceptions, prohibit parties from asking court interpreters to provide on-the-spot translations of written documents or on-the-spot interpretation of recorded evidence;
- (3) direct interpreters to review audio and video files recorded in English prior to a court proceeding;

- (4) require court interpreters to inform the court if they are unable to provide on-the-spot interpretation or translations; and
- (5) make non-substantive formatting changes.

Rule 4-510.03. The proposed amendments remove the option for applicants to qualify for inclusion on the Court-Approved Alternative Dispute Resolution roster by completing education, training, or experience requirements not listed in the rule.

Rule 1-101. General definitions — ~~Rules of construction.~~**Intent:**

To establish clear and uniform definitions of words used in this Code.

Applicability:

These definitions shall apply to all rules adopted by the Judicial Council.

Statement of the Rule:

(1) **Definitions.** Unless the context indicates otherwise, as used in this Code:

(A) "**Administrative Office**" means the Administrative Office of the State Courts Administrator.

(B) "**Administrative Staff**" means employees of the judiciary who are authorized to perform ~~and responsible for performing~~ administrative functions.

~~(C) "**Administrator**" means the State Court Administrator.~~

~~(DE) "**Board**" means one or more of the Boards of Judges established by this Code.~~

~~(D) "**Chair**" means the presiding officer of a board of judges.~~

(E) "**Code**" means the Code of Judicial Administration and may be cited as CJA.

(F) "**Council**" means the Utah Judicial Council as established by Article VIII, Section 12 of the Utah Constitution.

(G) "**Court**" means an entire jurisdictional system and not any geographic division thereof.

(H) "**Court Level Administrator**" means the district, juvenile, appellate, business and chancery court, or justice court administrator.

(I) "**Courts of Record**" means those courts in which the judges have the qualifications required by Article VIII, Section 7 of the Utah Constitution, are selected in the manner prescribed by Article VIII, Section 8 of the Utah Constitution, and are retained in the manner prescribed by Article VIII, Section 9 of the Utah Constitution. The following are courts of record: the Supreme Court, the Court of Appeals, the district courts, and the juvenile courts.

(J) "**Courts not of Record**" means those courts in which the judges have the qualifications established by the Legislature and are selected in a manner prescribed by the Legislature under the authority of Article VIII, Section 11 of the Utah Constitution. Justice courts are courts not of record.

(K) "**Final action**" means the vote of the ~~C~~ouncil adopting, amending, or repealing a rule or resolution.

(L) "**Judge**" includes justices and judges of courts of record and courts not of record.

(M) "**Judicial Officer**" means ~~an officer of the court who is a judge, or justice, or court commissioner and has the authority to decide causes or issues between parties and render decisions in a judicial capacity.~~

(N) "**Judiciary**" means the entire judicial branch of government in the state of Utah ~~including justices, judges, court commissioners, referees, hearing officers, court reporters, clerical and administrative staff and central, local, and line staff.~~

(O) "**Local Supplemental Rules**" means those rules governing the administration of a ~~the judiciary which have been adopted by the~~ local courts, which are adopted in accordance with the provisions of this Code.

(P) "**Policy**" means the general principles for the government of the Judiciary.

(Q) "**Presiding Officer**" means the chief justice of the Supreme Court as the presiding officer of the C~~e~~council.

(R) "**Quasi-judicial Officer**" means court commissioners and court referees.

(S) "**Quorum**" means a majority of the members of the ~~Judicial~~ Council, Board, committee, or other body.

(T) "**Resolution**" means a formal statement of the opinion of the C~~e~~council.

(U) "**Rule**" means a court rule adopted by the Council or Supreme Court ~~standard, guideline, or directive issued by the council concerning a matter of policy.~~

(V) "**Secretariat**" means the clerical and administrative staff to the Council, the Boards and the Council's executive, ad hoc, and standing committees.

(~~WH~~) "**Trial Court Executives**" means the chief administrative officer of the local courts ~~and the clerks of the appellate courts.~~

~~(2) Unless the context indicates otherwise, singular terms in this Code the singular includes include the plural, and the plural terms include the singular; the masculine includes the feminine, and the feminine the masculine.~~

~~(3) Any rule of the council, insofar as the rule is that is substantively identical to an existing policy of the council, shall will be construed as a continuation of such that policy and not as a new enactment.~~

Effective: ~~January 27, 1997~~ May 1, 2025

Rule 1-205. Standing and Ad Hoc Committees.**Intent:**

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

Applicability:

This rule applies to the internal operation of the Council.

Statement of the Rule:**(1) Standing Committees.**

(1)(A) **Establishment.** The following standing committees of the Council are hereby established:

(1)(A)(i) Uniform Fine Committee;

(1)(A)(ii) Ethics Advisory Committee;

(1)(A)(iii) Judicial Branch Education Committee;

(1)(A)(iv) Court Facility Planning Committee;

(1)(A)(v) Committee on Children and Family Law;

(1)(A)(vi) Committee on Resources for Self-represented Parties;

(1)(A)(vii) Language Access Committee;

(1)(A)(viii) Guardian ad Litem Oversight Committee;

(1)(A)(ix) Committee on Model Utah Civil Jury Instructions;

(1)(A)(x) Committee on Model Utah Criminal Jury Instructions;

(1)(A)(xi) Committee on Court Forms;

(1)(A)(xii) Committee on ~~Judicial~~ Fairness and Accountability;

(1)(A)(xiii) Working Interdisciplinary Network of Guardianship Stakeholders (WINGS); and

(1)(A)(xiv) Tribal Liaison Committee.

(1)(B) Composition.

(1)(B)(i) The **Uniform Fine Committee** performs the duties described in rule 4-302 and will consist of:

(1)(B)(i)(a) one district court judge who has experience with a felony docket;

(1)(B)(i)(b) three district court judges who have experience with a misdemeanor docket; and

(1)(B)(i)(c) four justice court judges.

(1)(B)(ii) The **Ethics Advisory Committee** performs the duties described in rule 3-109 and will consist of:

(1)(B)(ii)(a) one judge from the Court of Appeals;

(1)(B)(ii)(b) one district court judge from Judicial Districts 2, 3, or 4;

(1)(B)(ii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;

(1)(B)(ii)(d) one juvenile court judge;

(1)(B)(ii)(e) one justice court judge; and

(1)(B)(ii)(f) an attorney from either the Bar or a college of law.

(1)(B)(iii) The **Judicial Branch Education Committee** performs the duties described in rule 3-403 and will consist of:

(1)(B)(iii)(a) one judge from an appellate court;

(1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;

(1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;

(1)(B)(iii)(d) one juvenile court judge;

(1)(B)(iii)(e) the education liaison of the Board of Justice Court Judges;

(1)(B)(iii)(f) one state-court level administrator;

(1)(B)(iii)(g) the Human Resource Management Director;

(1)(B)(iii)(h) one court executive;

(1)(B)(iii)(i) one juvenile court probation representative;

(1)(B)(iii)(j) two court clerks from different levels of court and different judicial districts;

(1)(B)(iii)(k) one data processing manager; and

(1)(B)(iii)(l) one adult educator from higher education.

(1)(B)(iii)(m) The Human Resource Management Director and the adult educator will serve as non-voting members. The courtstate level administrator and the Human Resource Management Director will serve as permanent Committee members.

(1)(B)(iv) The **Court Facility Planning Committee** performs the duties described in rule 3-409 and will consist of:

(1)(B)(iv)(a) one judge from each level of trial court;

(1)(B)(iv)(b) one appellate court judge;

(1)(B)(iv)(c) the state court administrator;

(1)(B)(iv)(d) a trial court executive;

(1)(B)(iv)(e) two business people with experience in the construction or financing of facilities; and

(1)(B)(iv)(f) the court security director; and

(1)(B)(iv)(g) two community representatives who are knowledgeable about the needs of the self-represented litigants.

(1)(B)(v) The **Committee on Children and Family Law** performs the duties described in rule 4-908 and will consist of:

(1)(B)(v)(a) one Senator appointed by the President of the Senate;

(1)(B)(v)(b) the Director of the Department of Human Services or designee;

(1)(B)(v)(c) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;

(1)(B)(v)(d) one attorney with experience in abuse, neglect and dependency cases;

(1)(B)(v)(e) one attorney with experience representing parents in abuse, neglect and dependency cases;

(1)(B)(v)(f) one representative of a child advocacy organization;

(1)(B)(v)(g) the ADR Program Director or designee;

(1)(B)(v)(h) one professional in the area of child development;

(1)(B)(v)(i) one mental health professional;

(1)(B)(v)(j) one-two community representatives of the community who are knowledgeable about the needs of self-represented litigants;

(1)(B)(v)(k) the Director of the Office of Guardian ad Litem or designee;

(1)(B)(v)(l) one court commissioner;

(1)(B)(v)(m) two district court judges; and

(1)(B)(v)(n) two juvenile court judges.

(1)(B)(v)(o) One of the district court judges and one of the juvenile court judges will serve as co-chairs to the committee. In its discretion, the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vi) The **Committee on Resources for Self-represented Parties** performs the duties described in rule 3-115 and will consist of:

(1)(B)(vi)(a) two district court judges;

(1)(B)(vi)(b) one juvenile court judge;

(1)(B)(vi)(c) two justice court judges;

(1)(B)(vi)(d) three clerks of court – one from an appellate court, one from an urban district, and one from a rural district;

(1)(B)(vi)(e) one representative from a social services organization providing direct services to underserved communities;

(1)(B)(vi)(f) one representative from the Utah State Bar;

(1)(B)(vi)(g) two representatives from legal service organizations that serve low-income clients;

(1)(B)(vi)(h) one private attorney experienced in providing services to self-represented parties;

(1)(B)(vi)(i) two law school representatives;

(1)(B)(vi)(j) the state law librarian; and

(1)(B)(vi)(k) two community representatives who are knowledgeable about the needs of self-represented litigants.

(1)(B)(vii) The **Language Access Committee** performs the duties described in rule 3-306.02 and will consist of:

(1)(B)(vii)(a) one district court judge;

(1)(B)(vii)(b) one juvenile court judge;

(1)(B)(vii)(c) one justice court judge;

(1)(B)(vii)(d) one trial court executive;

(1)(B)(vii)(e) one court clerk;

(1)(B)(vii)(f) one interpreter coordinator;

(1)(B)(vii)(g) one probation officer;

(1)(B)(vii)(h) one prosecuting attorney;

(1)(B)(vii)(i) one defense attorney;

(1)(B)(vii)(j) two certified interpreters;

(1)(B)(vii)(k) one approved interpreter;

(1)(B)(vii)(l) one expert in the field of linguistics; ~~and~~

(1)(B)(vii)(m) one American Sign Language representative; and

(1)(B)(vii)(n) two community representatives who are knowledgeable about the needs of self-represented litigants.

(1)(B)(viii) The **Guardian ad Litem Oversight Committee** performs the duties described in rule 4-906 and will consist of:

(1)(B)(viii)(a) seven members with experience in the administration of law and public services selected from public, private, and non-profit organizations.

(1)(B)(ix) The **Committee on Model Utah Civil Jury Instructions** performs the duties described in rule 3-418 and will consist of:

(1)(B)(ix)(a) two district court judges;

(1)(B)(ix)(b) four lawyers who primarily represent plaintiffs;

(1)(B)(ix)(c) four lawyers who primarily represent defendants; and

(1)(B)(ix)(d) one person skilled in linguistics or communication.

(1)(B)(x) The **Committee on Model Utah Criminal Jury Instructions** performs the duties described in rule 3-418 and will consist of:

(1)(B)(x)(a) two district court judges;

(1)(B)(x)(b) one justice court judge;

(1)(B)(x)(c) four prosecutors;

(1)(B)(x)(d) four defense counsel; and

(1)(B)(x)(e) one person skilled in linguistics or communication.

(1)(B)(xi) The **Committee on Court Forms** performs the duties described in rule 3-117 and will consist of:

(1)(B)(xi)(a) two district court judges;

(1)(B)(xi)(b) one court commissioner;

(1)(B)(xi)(c) one juvenile court judge;

(1)(B)(xi)(d) one justice court judge;

- (1)(B)(xi)(e) one court clerk;
- (1)(B)(xi)(f) one appellate court staff attorney;
- (1)(B)(xi)(g) one representative from the Self-Help Center;
- (1)(B)(xi)(h) the State Law Librarian;
- (1)(B)(xi)(i) the district court administrator or designee;
- (1)(B)(xi)(j) one representative from a legal service organization that serves low-income clients;
- (1)(B)(xi)(k) one paralegal;
- (1)(B)(xi)(l) one educator from a paralegal program or law school;
- (1)(B)(xi)(m) one person skilled in linguistics or communication;
- (1)(B)(xi)(n) one representative from the Utah State Bar; **and**
- (1)(B)(xii)(o) the LPP administrator; **and**
- (1)(B)(xii)(p) two community representatives who are knowledgeable about the needs of the self-represented litigants.

(1)(B)(xii) The **Committee on Fairness and Accountability** performs the duties described in rule 3-420. The committee will include members who demonstrate an interest in or who have experience with issues of diversity, equity, and inclusion and will consist of:

- (1)(B)(xii)(a) one district court judge;
- (1)(B)(xii)(b) one juvenile court judge;
- (1)(B)(xii)(c) one justice court judge;
- (1)(B)(xii)(d) one appellate court judge;
- (1)(B)(xii)(e) two former judges from any court level;
- (1)(B)(xii)(f) the General Counsel or designee;

(1)(B)(xii)(g) ~~one two community~~ representatives ~~of the community who~~
are knowledgeable about the needs of self-represented litigants;

(1)(B)(xii)(h) the Director of the Office of Fairness and Accountability;

(1)(B)(xii)(i) the Director of Data and Research or designee; and

(1)(B)(xii)(j) up to two additional qualified individuals.

(1)(B)(xiii) The **Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)** performs the duties described in rule 3-421, and will consist of:

(1)(B)(xiii)(a) **Judiciary** representatives:

(1)(B)(xiii)(a)(i) two or more district court judges;

(1)(B)(xiii)(a)(ii) two or more district court judicial support staff with experience in guardianship matters;

(1)(B)(xiii)(a)(iii) one representative from the Guardianship Reporting and Monitoring Program (GRAMP); and

(1)(B)(xiii)(a)(iv) one representative from the Court Visitor Program.

(1)(B)(xiii)(b) **Community stakeholder** representatives:

(1)(B)(xiii)(b)(i) one representative from Adult Protective Services;

(1)(B)(xiii)(b)(ii) one representative from Disability Law Center;

(1)(B)(xiii)(b)(iii) one representative from Adult and Aging Services;

(1)(B)(xiii)(b)(iv) one representative from Office of Public Guardian;

(1)(B)(xiii)(b)(v) one representative from the Utah State Bar;

(1)(B)(xiii)(b)(vi) one representative from Office of the Attorney General;

(1)(B)(xiii)(b)(vii) one representative from the Utah legislature;

(1)(B)(xiii)(b)(viii) one representative from the Utah Commission on Aging;

(1)(B)(xiii)(b)(ix) one representative from Utah Legal Services; and

(1)(B)(xiii)(b)(x) the Long-Term Care Ombudsman or designee.

(1)(B)(xiii)(c) **Individual community** representatives. Three or more community stakeholders representing:

(1)(B)(xiii)(c)(i) mental health community;

(1)(B)(xiii)(c)(ii) medical community;

(1)(B)(xiii)(c)(iii) private legal community that specializes in guardianship matters;

(1)(B)(xiii)(c)(iv) aging-adult services community;

(1)(B)(xiii)(c)(v) educator from a legal program or law school;

(1)(B)(xiii)(c)(vi) organization serving low-income, minorities, or marginalized communities;

(1)(B)(xiii)(c)(vii) citizens under or involved in guardianship; and

(1)(B)(xiii)(c)(viii) other organizations with a focus including, but not limited to guardianship, aging, legal services, or disability.

(1)(B)(xiv) The **Tribal Liaison Committee** performs the duties described in rule 3-422 and will consist of:

(1)(B)(xiv)(a) one district court judge;

(1)(B)(xiv)(b) one juvenile court judge;

(1)(B)(xiv)(c) one justice court judge;

(1)(B)(xiv)(d) one appellate court judge;

(1)(B)(xiv)(e) one federal district court judge or magistrate;

(1)(B)(xiv)(f) one tribal court judge;

(1)(B)(xiv)(g) two representatives of Utah's Indian Tribes or affiliated community groups;

(1)(B)(xiv)(h) the Tribal Liaison;

(1)(B)(xiv)(i) one trial court executive;

(1)(B)(xiv)(j) one clerk of court or designee;

(1)(B)(xiv)(k) one representative from the Utah State Bar Indian Law Section;

(1)(B)(xiv)(l) one representative from the United States Attorney's Office;

(1)(B)(xiv)(m) one representative from the Indigent Defense Commission; and

(1)(B)(xiv)(n) one representative from the Guardian ad Litem's Office.

(1)(C) **Standing committee meetings and chairs.** The ~~Judicial~~ Council will designate the chair of each standing committee. Standing committees will meet as necessary to accomplish their work. ~~Standing committees will report to the Council as necessary but a minimum of once every year.~~ Except for the Committee on ~~Judicial~~ Fairness and Accountability, ~~C~~council members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

(1)(D) **Committee performance review.**

(1)(D)(i) **Council.** Standing committees will report to the Council as necessary, but at least annually.

(1)(D)(ii) **Committee assessment.** At least once every ~~six-three~~ years, the chair of each standing committee~~Management Committee~~ will ~~review the performance of each committee~~conduct a performance assessment. Chairs should, at a minimum, consider:

(1)(D)(ii)(a) whether there is a more efficient way to accomplish the committee's work;

(1)(D)(ii)(b) whether there are any redundancies that would allow for consolidation with other committees or working groups; and

(1)(D)(ii)(c) whether the committee continues to serve its purpose or could be dissolved.

(1)(D)(iii) **Management Committee.** Committee chairs will report the results of the performance assessment in paragraph (1)(D)(ii) to the Management Committee. If the Management Committee determines that the committee continues to serve its purpose, the Management Committee will recommend to the ~~Judicial~~ Council that the committee continue. If the Management Committee determines that modification of a committee is warranted, it may so recommend to the ~~Judicial~~ Council.

(1)(D)(iv) **Guardian ad Litem Oversight Committee.** Notwithstanding subsection (1)(D), ~~the~~ Guardian ad Litem Oversight Committee, recognized by Section 78A-~~2-1046-901~~, will not terminate.

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees will keep the Council informed of their activities. Ad hoc committees may form sub-committees as they deem advisable. Ad hoc committees will ~~disband~~ upon issuing a final report or recommendation(s) to the Council, upon expiration of the time set for termination, or upon the order of the Council.

(3) **General provisions.**

(3)(A) **Appointment process.**

(3)(A)(i) **Administrator's responsibilities.** The state court administrator will select a member of the administrative staff to serve as the administrator for committee appointments. Except as otherwise provided in this rule, the administrator will:

(3)(A)(i)(a) announce expected vacancies on standing committees two months in advance and announce vacancies on ad hoc committees in a timely manner;

(3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from each prospective appointee and information regarding the prospective appointee's present and past committee service;

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective reappointee's service on the committee, the attendance record of the

prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

(3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council and report on recommendations received regarding the appointment of members and chairs.

(3)(A)(ii) **Council's responsibilities.** The Council will appoint the chair of each committee. Whenever practical, appointments will reflect geographical, gender, cultural, and ethnic diversity.

(3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members will serve staggered three-year terms. Standing committee members may not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.

(3)(C) **Expenses.** Members of standing and ad hoc committees may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as committee members.

(3)(D) **Secretariat.** The Administrative Office will serve as secretariat to the Council's committees.

Effective: ~~November 1, 2024~~ May 1, 2025

Rule 3-306.04. Interpreter appointment, payment, and fines.**Intent:**

To state the policy of the Utah courts to secure the rights of people under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. in legal proceedings who are unable to understand or communicate adequately in the English language.

To outline the procedures for appointment and payment of contract interpreters for legal proceedings.

Applicability:

This rule ~~shall apply~~applies to legal proceedings in courts of record and not of record.

This rule ~~shall apply~~applies to interpretation for individuals with a primary language other than English and limited English proficiency (LEP). ~~This rule does not apply to non-English speaking people and not to~~ interpretation for ~~persons~~individuals with a hearing impairment, which is governed by Utah and federal statutes.

Statement of the Rule:**(1) Appointment.**

(1)(A) Except as provided in paragraphs (1)(B) and (1)(C), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and ~~limited English proficiency~~LEP, the appointing authority ~~will~~shall appoint a certified or approved interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of LEP~~limited English proficiency~~.

(1)(B) A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.

(1)(C) A conditionally-approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

(1)(C)(i) the prospective interpreter has language skills, knowledge of interpreting techniques, and familiarity with interpreting sufficient to interpret the legal proceeding; ~~and~~

(1)(C)(ii) appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and

(1)(C)(iii) a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved

44 interpreter are not justified.

45
46 (1)(D) **Out of state credentials.** The appointing authority may appoint an interpreter
47 with certified or approved or equivalent credentials from another state if the
48 appointing authority finds that the approved, registered, or conditionally approved
49 interpreters who are reasonably available do not have the language skills,
50 knowledge of interpreting techniques, or familiarity with interpreting sufficient to
51 interpret the legal proceeding. The appointing authority may consider the totality of
52 the circumstances, including the complexity or gravity of the legal proceeding, the
53 potential consequences to the person of ~~LEP~~~~limited English proficiency~~, and any other
54 relevant factor.

55
56 (1)(E) **Direct verbal exchange.** No interpreter is needed for a direct verbal exchange
57 between the person and court staff if the court staff can fluently speak the language
58 understood by the person and the state court employee is acting within guidelines
59 established in the Human Resources Policies and Procedures. An approved,
60 registered, or conditionally approved interpreter may be appointed if court staff
61 does not speak the language understood by the person.

62
63 (1)(F) **Number of interpreters.** The appointing authority will appoint one interpreter
64 for all participants with ~~LEP~~~~limited English proficiency~~, unless the judge determines that
65 the participants have adverse interests, or that due process, confidentiality, the
66 length of the legal proceeding, or other circumstances require that there be
67 additional interpreters.

68
69 (2) **Review of denial of request for interpreter.** A person whose request for an interpreter
70 has been denied may apply for review of the denial. The application ~~shall~~will be decided by
71 the presiding judge. If there is no presiding judge or if the presiding judge is unavailable,
72 the court clerk ~~will~~~~of the court shall~~ refer the application to any judge ~~of the court or any judge~~ of
73 a court of equal jurisdiction. The application must be filed within 20 days after the denial.

74
75 (3) **Waiver.** A person may waive an interpreter if the appointing authority approves the
76 waiver after determining that the waiver has been made knowingly and voluntarily. A
77 person may retract a waiver and request an interpreter at any time. An interpreter is for
78 the benefit of the court as well as for the ~~non-English-speaking~~ person with a primary language
79 other than English and LEP, so the appointing authority may reject a waiver.

80
81 (4) **Translation of court forms.** Forms must be translated by a team of at least two people
82 who are interpreters certified or approved under this rule or translators accredited by the
83 American Translators Association.

84
85 (5) Recorded evidence.
86

(5)(A) **Sight translations.** Parties may not ask interpreters to produce on-the-spot sight translations of written documents. The court may explain to the parties why this task is inappropriate.

(5)(B) **Recorded evidence in languages other than English.** When offering a recording of a spoken language other than English, a party must offer a written transcript of the recording to aid the jury or the court in understanding the recording. Admissibility of the recording and transcript is governed by the Utah Rules of Evidence.

(5)(C) **Recorded evidence in English.** Audio and video files recorded in English that will be played in open court should be reviewed by the interpreter(s) who will be providing language services for that hearing prior to the proceeding.

(5)(D) **Emergency circumstances.** If the situation involves an emergency circumstance, the court may require a party with LEP to testify as to what is being said on the recording and have that testimony interpreted by the court interpreter for the record. If the recorded evidence is brief or not complex, the court may permit on-the-spot interpretation with the consent of the court interpreter.

(5)(E) **Duty to inform.** Court interpreters assigned to a given proceeding must inform the judge if they are unable to provide an on-the-spot interpretation of audio or video recordings, or sight translations of written documents in English.

(56) Payment.

(56)(A) **Courts of record.** The fees and expenses for language access in courts of record ~~shall will~~ be paid by the Administrative Office. Payment of fees and expenses ~~shall will~~ be made in accordance with the Accounting Manual.

(56)(B) **Courts not of record.** The local government that funds a court not of record ~~shall will~~ set and pay the fees and expenses for interpreters in that court.

(56)(C) **Parties.** The court may assess the fees and expenses as costs to a party as otherwise provided by law- (e.g., Utah Constitution, Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-116, 77-32b-104, 78B-1-146(3), URCP-Rule 54 of the Utah Rules of Civil Procedure(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., ~~and including~~ regulations and guidance adopted under that title-).

(56)(D) **Review.** A person who has been ordered to pay fees and expenses for language access may apply to the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge of ~~the court or any judge of a~~ court of equal jurisdiction. The application must be filed within 20 days after the date the order was issued.

| 131 *Effective:* ~~2/27/2024~~May 1, 2025

Rule 4-510.03. Qualification of ADR providers.**Intent:**

To establish eligibility and qualification requirements for inclusion on the Utah Court Approved ADR Roster including additional requirements for designation as a Divorce Roster Mediator, Master Mediator, and Domestic Mentor.

Applicability:

This rule applies ~~to in the~~ district courts.

Statement of the Rule:

(1) **Application.** To be eligible for the roster, an applicant must:

(1)(A) submit a written application to the Director setting forth:

(1)(A)(i) a description of how the applicant meets, or will meet within a reasonable time, the requirements specified in paragraph (2)(A), if applicable;

(1)(A)(ii) the major areas of specialization and experience of the applicant, such as real estate, estates, trusts and probate, family law, personal injury or property damage, securities, taxation, civil rights and discrimination, consumer claims, construction and building contracts, corporate and business organizations, environmental law, labor law, natural resources, business transactions/commercial law, administrative law and financial institutions law;

(1)(A)(iii) the maximum fees the applicant will charge for service as a provider under the ADR program; and

(1)(A)(iv) the judicial districts in which the applicant is offering to provide services and the location and a description of the facilities in which the applicant intends to conduct the ADR proceedings;

(1)(B) agree to complete and annually complete up to six hours of ADR training as required by the Judicial Council;

(1)(C) submit an annual report to the Director indicating the number of mediations and arbitrations the ADR provider has conducted that year; and

(1)(D) be re-qualified annually.

(2) **Mediator eligibility.** To be included on the roster as a mediator:

(2)(A) **Education and experience.** ~~all n~~New applicants to the court roster must ~~also~~ have successfully completed at least 40 hours of court-approved basic formal mediation training in the last three years. This training ~~shall~~ **must** be under a single training course from a single, court-approved training provider. The applicant must also complete 10 hours of experience in observing a court-qualified mediator conduct mediation, and 10 hours in either conducting mediations singly or co-mediating with a court-qualified

mediator ~~or meet such other education, training and experience requirements as the Council finds will promote the effective administration of the ADR program;~~

(2)(B) **Examination.** New applicants must successfully pass an examination on the ethical requirements for mediators on the Utah Court Roster;

(2)(C) **Pro bono mediation.** New applicants and providers must agree to conduct at least three pro bono mediations each year as referred by the Director; ~~and~~

(2)(D) **Good moral character.** New applicants and providers must be of good moral character in that the provider has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other serious crime, and has not received professional sanctions that, when considered in light of the duties and responsibilities of an ADR provider, are determined by the Director to indicate that the best interests of the public are not served by including the provider on the roster.

(3) **Divorce mediator eligibility.** To be included on the court roster for qualified divorce mediators:

(3)(A) **Training.** ~~All n~~New applicants to the roster of divorce mediators must also have an additional 32 hours of court-approved training specific to the skills, Utah laws, and information needed to conduct divorce mediation. This training shall be under a single training course from a single, court-approved provider.

(3)(B) **Domestic violence training.** ~~All~~New applicants must have a minimum of 6 hours of training specific to domestic violence and screening for domestic violence which may be included in the court-approved 32-hour training referred to above.

(3)(C) **Experience.** New applicants to the court roster of divorce mediators are required to have acquired experience specific to divorce mediation. This is in addition to the 20 hours of experience required for the court roster of basic mediators. The additional experience includes having observed a minimum of two divorce mediations, co-mediating two divorce mediations, and having been observed conducting two divorce mediations. Each of these includes debriefing and analysis afterward with a mediator who has Domestic Mentor status. The Domestic Mentor may charge a fee for this service.

(3)(D) **List.** The Director will maintain and make available a list of those mediators who have Domestic Mentor status.

(4) **Master Mediator.** To be included on the roster as a Master Mediator, the provider must also have completed 300 hours in conducting mediation sessions.

(5) **Domestic Mentor.** To be included on the roster as a Domestic Mentor, the provider must also have completed 300 hours in conducting mediation in domestic cases and completed a domestic mentor orientation.

(6) **Arbitrator eligibility.** To be included on the roster as an arbitrator, the provider must also:

(6)(A) **Utah Bar.** ~~h~~Have been a member in good standing of the Utah State Bar for at least ten years; ~~or meet such other education, training and experience requirements as the Council finds will promote the effective administration of the ADR program;~~

(6)(B) **Good moral character.** ~~b~~Be of good moral character in that the provider has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other serious crime, and has not received professional sanctions that, when considered with the duties and responsibilities of an ADR provider are determined by the Director to indicate that the best interests of the public are not served by including the provider on the roster; and

(6)(C) **Pro bono arbitration.** ~~a~~Agree to conduct at least one pro bono arbitration each year as referred by the Director.

(7) **Mediator re-qualification.** To be re-qualified as a mediator, the provider must, unless waived by the Director for good cause, demonstrate that the provider has conducted at least six mediation sessions or conducted 24 hours of mediation during the previous year.

(8) **Arbitrator re-qualification.** To be re-qualified as an arbitrator, the provider must, unless waived by the Director for good cause, demonstrate that the provider has conducted at least three arbitration sessions or conducted 12 hours of arbitration during the previous year.

(9) **Sanctions.** A provider may be sanctioned for failure to comply with the code of ethics for ADR providers as adopted by the Supreme Court or for failure to meet the requirements of this rule or state statute. The Judicial Council's ad hoc committee on ADR ("Cecommittee") ~~shall will~~ inform the public of public sanctions against a provider promptly after imposing the sanction.

(9)(A) **Public sanctions.** Public sanctions may include singly or with other sanctions:

(9)(A)(i) a written warning and requirement to attend additional training;

(9)(A)(ii) ~~require the mediator to allow the Director or designee to observe~~ ation by the Director, or the Director's designee, of a set number of mediation sessions conducted by the mediator;

(9)(A)(iii) suspension for a period of time from the court roster; ~~or~~

(9)(A)(iv) ~~removal from the court roster.~~

(9)(B) **Private sanctions.** Private sanctions may include singly or with other sanctions:

(9)(B)(i) admonition; ~~or~~

(9)(B)(ii) a requirement to re-take and successfully pass the ADR ethical exam.

~~(9)(C)~~ **Procedures.** The Cecommittee ~~shall will~~ approve and publish procedures consistent with this rule to be used in imposing the sanction.

(10) Complaints. The complainant ~~shall must be submitted to the Director in writing file a written~~ and signed by the complainant with the director. The Ddirector ~~shall will~~ notify the provider in writing of the complaint and provide an opportunity to respond. The ~~d~~Ddirector may

149 interview the complainant, the provider and any parties involved. Upon consideration of all
150 factors, the ~~d~~Director may impose a sanction, with notice to ~~and notify~~ the complainant and the
151 ~~p~~Provider. If the ~~p~~Provider seeks to challenge the sanction, the ~~p~~Provider must notify the
152 ~~D~~irector within 10 days of receipt of the ~~notific~~ation. The ~~p~~Provider may request
153 reconsideration by the ~~d~~Director or a hearing by the ~~Judicial Council's ad hoc C~~committee ~~on~~
154 ~~ADR~~. The decision of the ~~C~~committee is final.

155
156 *Effective: ~~11/1/2018~~ May 1, 2025*

TAB 3

CJA 3-117. Committee on Court Forms

Notes: See attached memo



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

February 28, 2025

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy Court Administrator

MEMORANDUM

TO: Policy, Planning & Technology Committee

FROM: Janine Liebert, on behalf of the Forms Committee

RE: Proposed Revisions to CJA 3-117 (enabling rule for the Forms Committee)

The Committee on Court Forms (Forms Committee) seeks approval from the Committee on Policy, Planning & Technology to revise its enabling rule, CJA3-117. A redlined version of the draft rule is attached. These changes would:

- formalize the understanding that the Forms Committee is the only body within the judiciary with the power to make forms that are commonplace and require action or written input from litigants available for public use;
- harmonize practice, to clarify that the Council approves forms to be used by Licensed Paralegal Practitioners and the Forms Committee approves all other forms;
- allow the Forms Committee to delegate its responsibility for certain groups of forms as it deems appropriate;
- direct the Forms Committee to draft forms to center the needs of self-represented litigants and promote and expand access to justice.

Background on the Forms Committee

The Forms Committee was created by the Judicial Council in 2017. Prior to its creation, the relevant board of judges approved court forms - the intent was to move this authority to the new committee.¹ The Management Committee recommended that the new Forms Committee have approval authority over forms to clarify that there is one body within the judiciary that serves this function.² The need for clarity came into focus as the AOC considered how to stand

¹ See Council Minutes December 2, 2016, available at <https://legacy.utcourts.gov/utc/judicialcouncil/wp-content/uploads/sites/48/2016/12/council-2016-12-Meeting-materials1.pdf>, page 22.

² See Council Minutes (second part) memorandum from Nancy Sylvester to Judicial Council December 19, 2016, available at <https://legacy.utcourts.gov/utc/judicialcouncil/wp-content/uploads/sites/48/2016/12/council-2016-12-Meeting-materials2.pdf>, page 34.

The mission of the Utah judiciary is to provide an open, fair, efficient, and independent system for the advancement of justice under the law.

up the LPP program.³ The Council was also concerned about maintaining forms for currentness and deleting forms that are not currently in use.⁴ Maintaining standard forms that are current and accessible to litigants can help courts provide accurate outcomes and increase efficiency while helping the judiciary to avoid potential liability and duplication of effort.

The Forms Committee has now approved hundreds of forms and significantly increased access to justice. Almost all forms LPPs would need to practice in their three main practice areas (debt collection, eviction, and family law) have been approved. Additionally, over the years the committee has refined its processes and dramatically simplified court forms. The plain-language bilingual summonses and the summons-like language on notices of motion were viewed with approval by the Supreme Court, which made their use mandatory in civil cases.⁵ As far as we are aware, Utah was the first statewide jurisdiction to implement the use of QR codes in court forms and to require a summons-like notice for motions. Those changes led to a 15% increase in traffic to the court's self-help pages⁶ which provide plain language help and guidance on how to engage with legal processes, all serving to further Utah's reputation as a leader in efforts to expand access to justice.

Work done before coming to PP&T

Prior members of Policy, Planning & Technology contemplated clarifying the exclusive authority of the Forms Committee to create court forms when they considered concerns that new forms might not go through the refinements offered by the Forms Committee's processes (such as a review for legal correctness and a plain language solution). Nathanael Player presented proposed changes to the Board of District Court Judges, the Board of Justice Court Judges, and the Board of Juvenile Court Judges. The feedback from the board, as summarized by Mr. Player, is below:

- The Board of District Court Judges generally wanted clarity on the definition of a form, agreed that forms should not be rejected if approved by the Forms Committee and wanted clarity from the Council about whether not a district or judge could make and require a conflicting form and agreed that forms earlier in the legal process (prior to trial) generated greater levels of confidence, which diminished as the process was closer to actual trial and the unique needs of each case became apparent.
- The Board of Juvenile Court Judges generally approved of the increased clarity as a practical way to move forward.
- The Board of Justice Court Judges generally wanted to be able to weigh in on all forms that would affect them (they were aware that they have a representative judge on the Forms Committee).

The Forms Committee carefully weighed the feedback from each board. They carefully defined what "form" is under the rule and specifically carved out orders, provided they do not require

³ *Id.*

⁴ See Council Minutes May 27, 2017, available at <https://legacy.utcourts.gov/utc/judicialcouncil/wp-content/uploads/sites/48/2017/05/2007-Good-to-uploadMeetingmaterials.pdf> page 27.

⁵ See URCP 4(c), and 7(c)(3).

⁶ This data came from the IT department, looking at web traffic for brief period before and after the implementation of the change to the URCP.

written input from litigants in order to complete a draft order. With that clarification, the Forms Committee decided to move to recommend the rule change. They approved these proposed revisions at their January 13, 2025, meeting, subject to review by the Committee on Resources for Self-Represented Parties (Self-Rep Committee).⁷ There were no recommended changes from the Self-Rep Committee at their February 6, 2025, meeting but they did discuss the composition of the Forms Committee - given the breadth of forms they handle - and processing times of forms taken to the Forms Committee. There was a general understanding from the group, however, that the Forms Committee regularly asks experts to help with drafting more technical forms (like guardianship) and that the rule's delegation language should address both concerns.

With no further concerns to address, the Forms Committee seeks approval from Policy, Planning and Technology. A red-lined version of the draft is attached.

⁷ As minutes from the December 2, 2016 Council meeting show, the Self-Rep Committee originally proposed and recommended the creation of the Forms Committee.

Rule 3-117. Committee on Court Forms**Intent:**

To establish a committee to determine the need for forms and to create forms for use by litigants in all court levels.

Applicability:

This rule ~~shall apply~~applies to the judiciary.

Statement of the Rule:

(1) **Scope of Committee Work.** The committee ~~shall~~will have exclusive responsibility within the judiciary over all forms that require written input or are commonplace and require action from litigants. Pretrial orders, checklists, and documents generated by decision-makers that do not require written input from litigants are beyond the scope of the committee. The committee may also draft legal forms that do not contemplate litigation yet expand access to justice. The committee may delegate its responsibility for certain groups of forms as it deems appropriate. ~~review current court forms and assess the need for new court forms to assist parties and practitioners in all court levels.~~

(2) **Current and new forms.** The committee ~~shall create forms as it deems necessary for use by parties and practitioners, including forms for the Online Court Assistance Program.~~will review current forms, assess the need for new court forms, and create and revise forms as it deems necessary for use by parties and practitioners at all court levels, including forms for the court document assembly program. The committee will also adopt procedures for the recommendation of translation of forms into other languages.

(3) **Licensed Paralegal Practitioners.** Forms for use by LPPs must be approved by the Council. For all other forms, the committee will be the final approving body.

(4) **Approved forms may not be rejected.** Courts may not reject committee-approved forms. However, committee approval is not binding on a decision-maker with regard to legal correctness in court proceedings.

(5) ~~Process for form creation.~~**Format and content.** Forms should be:

~~(3)(a) The committee shall adopt procedures for creating new forms or making substantive amendments to existing forms, procedures for eliminating obsolete and outdated forms, procedures for recommending which forms should be translated into other languages, and procedures for expediting technical or non-substantive amendments to forms.~~

~~(3)(b) Forms should be:~~

~~(35)(A)(i)~~(b)(i) written in plain language and reference the statutes and rules to which the forms apply; drafted to center the needs of self-represented litigants and promote and expand access to justice;

~~(35)(B)(ii)~~(b)(ii) reviewed for legal correctness; written in plain language;

~~(35)(Cb)(iii) standardized across the state where practicable; grounded in legal authority,~~
~~reviewed for legal correctness, and reference applicable statutes and rules;~~

~~(35)(Db)(iv) developed to promote and expand access to justice; standardized across~~
~~the state where practicable;~~

~~(35)(Eb)(v) structured to eliminate redundancy and unnecessary steps; and~~

~~(35)(Eb)(vi) user-tested when practicable.~~

~~(3)(c) The committee shall solicit input from other interested groups as it deems appropriate.~~
~~The committee may establish subcommittees using non-committee members to facilitate its~~
~~work.~~

~~(3)(d) The committee may recommend to the Judicial Council mandatory use of particular forms.~~
~~However, the Judicial Council's designation of a form as mandatory is not binding on a decision-~~
~~maker asked to review the legal correctness of the form.~~

~~(46) **Organizing forms.** The State Law Librarian will be responsible for maintaining and~~
~~archiving organizing the forms.~~

~~Effective: November 1, 2023November 1, 2025~~

TAB 4

CJA 3-203. Domestic Relations Special Masters (NEW)

Notes: See attached memo. A copy of the audit can be found at: <https://le.utah.gov/interim/2019/pdf/00003673.pdf>



*Nonie Ferguson, Esq. UT & FL *Kenton Walker, Esq. UT, MD & DC *Aubrey Staples, Esq. UT & WY

January 12, 2025

Sent via Email

Policy and Planning Committee

KeisaW@utcourts.gov

Re: Proposed UCJA 3-203 Domestic Relations Special Masters

Hello Policy and Planning Committee,

My name is Aubrey Staples. I am an attorney with Law Elevated. Thank you in advance for your time and consideration. I am reaching out on behalf of the Domestic Relations Special Master subcommittee which was created by the Standing Committee on Children and Family Law. We have prepared a proposed judicial administration rule (UCJA 3-203) for Domestic Relations Special Masters which intends to establish the qualifications, training requirements, and continuing education for domestic relations special masters for your consideration.

Briefly if you are unaware of why this is being brought as an issue, I point you to the 2019 Legislative Performance Audit of Child Welfare during Divorce Proceedings (attached as Exhibit B hereto) (hereinafter, the "Legislative Audit"). The Legislative Audit was organized to study a few different topics related to high-conflict, child-welfare-involved divorce cases including special masters. They focused on the use and powers, training requirements, minimum qualifications, and tracking of special masters. The Legislative Audit concluded that "Special [M]asters are lacking in oversight, guidance, and training requirements." See *2019 Legislative Audit, page 24*. More specifically, the Legislative Audit committee found that (1) "[t]he use and powers of special masters are unclear", (2) "[t]here are no specific training requirements or minimum qualifications to act as a special master", and (3) "[t]here is no detailed tracing of special masters." *Id.*

The Legislative Audit focused and referred to URCP 53 Masters. A separate subcommittee was formed to draft the proposed URCP 53A and which separated URCP 53 Masters from Domestic Relations Special Masters. The difference between URCP 53 Masters and URCP 53A Domestic Relations Special Masters is that the Domestic Relations Special Master, in the context of a divorce proceeding, is a person appointed by the courts to manage parenting disputes. URCP 53 Masters are appointed to handle other matters such as discovery issues, business accounting, etc.

As a brief aside, it is important for URCP 53A and UCJA 3-203 to move in tandem—URCP 53A is currently out for public comment. There are no official rules or regulations for currently acting special masters. Thus, it is unclear what their powers are, what ethical requirements/regulations they have, what if any specific training they need, etc.

In conclusion, the Domestic Relations Special Master subcommittee focused on providing clarification for point (2) from the Legislative Audit by creating a proposed rule that clarifies/defines the specific training requirements and minimum qualifications to act as a Domestic Relations Special Master. If the Committee has any questions, please feel free to reach out to me directly: aubrey@law-elevated.com

Warmest Regards,

/s/ Aubrey Staples, Esq.

*On behalf of the Domestic Relations
Special Master Subcommittee*

Enclosures:

1. Exhibit 1: Proposed UCJA 3-203
2. Exhibit 2: 2019 Legislative Audit

Rule 3-203. Domestic Relations Special Masters**Intent:**

To establish the qualifications, training requirements, and continuing education for domestic relations special masters.

Applicability:

This rule applies in any case in which a domestic relations special master is appointed by the Court. Nothing in this rule limits, supersedes, or replaces any currently acting domestic relations special masters.

Statement of the Rule:

(1) Types of cases and matters. The domestic relations special master appointed pursuant to Rule 53A of the Utah Rules of Civil Procedure must act once the order is signed by the Court.

(2) Initial Qualifications. A domestic relations special master must:

(2)(A) have an active bar license in good standing issued by the State of Utah;

(2)(B) have practiced domestic relations law for a minimum of five years, with at least two of those years in the State of Utah; and

(2)(C) possess an ability and experience in domestic relations law.

(3) Training. A domestic relations special master must have fulfilled all Continuing Legal Education (CLE) requirements during the years before they start serving in the role of domestic relations special master, including having attended the complete Guardian ad Litem training offered by the Utah Office of Guardian ad Litem.

(4) Mandatory Continuing Legal Education. The domestic relations special master must maintain as part of their annual CLE training a minimum of one credit related specifically to domestic relations special masters (commonly referred to as "parenting coordinators" in other states) and at least five credits related to Utah domestic relations law (such as trainings related to conflict resolution, mediation, child custody, parent-time, domestic violence, child support, alimony, parentage actions, and division of marital wealth).

(5) Conflict of Interest. The individual may not serve in multiple concurrent or sequential roles in the same case even with the consent of the parties.

(6) Rules of Professional Conduct. The domestic special master must adhere to the Utah Rules of Professional Conduct to the extent they are applicable.

Effective: November 1, 2025

Commented [KW1]: I'm not sure what this means. Alternatively, we could remove the word "initial" before "qualifications" in the heading and amend (2)(C) to: "meet the training and education requirements in paragraphs (3) and (4)."

UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

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LINKS

Posted: December 30, 2024

Utah Courts

Rules of Civil Procedure – Comment Period Closed February 13, 2025

URCP053A. Special masters for parenting disputes in domestic relations actions. NEW. This new rule is proposed to cover the court appointment of special masters specific to domestic relations actions. A separate rule is being drafted and will be proposed to cover the training and qualifications of a special master in domestic relations actions.

This entry was posted in **URCP053A**.

« Approved Amendments and Public Comment Period for Utah Rules of Criminal Procedure – Comment Period Closes February 16, 2025

Rules of Juvenile Procedure – Comment Period Closed February 1, 2025 »

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-Rules Governing the State Bar

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7 thoughts on “Rules of Civil Procedure – Comment Period Closed February 13, 2025”

Kayla Quam
January 2, 2025 at 1:31 pm

The type of cases that needs Special Masters appointed are the ones in which one of the parties will not agree to the appointment of a Special Master. I would greatly prefer a version where the Court has the ability to appoint a Special Master. This Rule could be limited for “high-conflict cases” or for “exceptional cases where the Court determines a Special Master would greatly reduce high attorney fees or conflict that is harming the children.”

Eric K. Johnson
January 13, 2025 at 4:21 pm

I can sympathize with the reasons/circumstances underlying Kayla Quam’s proposal, but the problem with her proposal is that courts could abuse such sua sponte power by “finding” virtually every case to be a high-conflict case, so that the case gets off the court’s desk and into the hands of a special master who gets paid by the hour. In my experience, too many courts already classify most divorce and child custody cases as “high conflict” to justify treating the parties and counsel shabbily, and if given the opportunity to outsource work to someone else, few courts would resist.

Regardless, special masters are generally a bad idea. They tend not to be sufficiently attentive, responsive, analytical, neutral, humble, thick-skinned, or resourceful. Few parties take them seriously. I’ve never had a positive experience with a special master. They love the title, they love the billing, but the concept doesn’t match the real-world application. They don’t perform a valuable service.

Eric K. Johnson
January 13, 2025 at 4:36 pm

- [-Rules of Appellate Procedure](#)
- [-Rules of Civil Procedure](#)
- [-Rules of Criminal Procedure](#)
- [-Rules of Evidence](#)
- [-Rules of Juvenile Procedure](#)
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- [Appendix B](#)
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- [CJA 1-101](#)
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- [CJA01-0201](#)
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- [CJA01-0205](#)
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- [CJA03-0106](#)

I can sympathize with the reasons/circumstances underling such a proposal, but I fear that granting courts a sua sponte right to appoint special masters in “high-conflict” cases would be too much of a temptation to treat virtually all cases as “high conflict” cases as an excuse for courts to outsource the work to a special master.

Regardless, special masters are generally a bad idea because they do not solve the problems for which they were created. I’ve never had a positive experience with a special master. They are insufficiently attentive, responsive, neutral, inquisitive, analytical, and resourceful. They love the title, they love to bill, but their work product does not justify their appointment. Parties don’t take them seriously because they are so often perceived as “not the judge” and thus “possessing no real power”.

Sara Pfrommer

January 9, 2025 at 11:11 am

I think that this is a move in the right direction. I would like to see more teeth in the section about dismissing a special master though – we’ve seen too many cases where special masters are favoring one party over another; failing to apply the law; taking too long to make time sensitive decisions, etc. It should be easier and quicker to ask for a different one.

Eric K. Johnson

January 13, 2025 at 4:24 pm

... because a different special master will solve those problems?

The problem with special masters lies not in the structure of a special master rule but in the implementation of a special master appointment itself. Special masters generally do a mediocre job that does not improve the situation as it existed before appointment of a special master.

Eric K. Johnson

January 13, 2025 at 4:25 pm

... because a different special master will solve those problems?

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The problem with special masters lies not in the structure of a special master rule but in the implementation of a special master appointment itself. Special masters generally do a mediocre job that does not improve the situation as it existed before appointment of a special master.

Catherine J. Hoskins

January 16, 2025 at 5:27 am

My concern is the language that they can modify the parenting plan. I think that exceeds their authority. Commissioner's are not allowed to modify the parenting plan. It has been my understanding that a special masters job is to interpret the areas where the parenting plan is unclear and assist the parties when they have disagreement. The problem is every special master case is different and it takes some time to figure out what each case needs and how to properly handle the parties. Many times the parties do not bring issues until they are emergencies and then they are frustrated with timely responses.

Special masters are not a silver bullet on every type of case, but they can be incredibly helpful when used properly. In regards to Mr. Johnson's comments he is right that there are some mediocre special masters, but that statement is applicable to every type of professional in our field, ie GAL's, custody evaluators, therapists, reunification therapists, mediators, attorneys(present company excluded :). Just because we have all of these professionals does not mean that they should not be used on every case. On this matter is there is currently a rule on Special Masters. The Rule does need to be clarified and revised from it's current format so that provides more guidance to the practioners for those who to chose to use it.

In regards to the issue of neutrality this is the same concern that comes up in every case with every commissioner, judge, mediator, as long as the rulings are explained in writing and both sides have an ability to object which they do then the parties are protected. The rule is helpful. I especially like the language and the end that the role can be expanded for other issues as the court and parties deem appropriate.

I appreciate all of the hard work that has gone into the drafting and revisions of the rule. The committee has done a great job with this rule.

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Rule 53A. Special masters for parenting disputes in domestic relations actions.

(a) **Scope.** This rule applies to domestic relations actions as defined in Rule 26.1.

(b) **Definitions.**

(1) “Special master” means an attorney or other professional appointed by the court to assist the court in managing parenting disputes that may arise during or after a divorce.

(2) “Parenting disputes” means disputes relating to any matter addressed in parenting plans or other related orders of the court including, without limitation, visitation or parent time, co-parenting, and child related expenses.

(c) **Time for appointment; Parties’ stipulation.** A court may appoint a special master by order after entry of a court ordered parenting plan, temporary order, or final order in a case. A court may appoint a special master only upon stipulation of the parties. If the parties stipulate to the appointment of a special master, the court may select the special master.

(d) **Compensation.** The court will fix the terms of the special master’s compensation, including how compensation will be apportioned between the parties. The court may incorporate by reference the terms of the special master’s fee agreement.

(e) **Term and scope of appointment.** The court will specify the length and scope of the special master’s appointment at the time of appointment. The court may modify the term or scope of the appointment for good cause upon its own motion, a motion of a party, or a request by the special master.

(f) **Powers and limitations.**

(1) **Directives.** The court may authorize the special master to resolve parenting disputes through directives. Directives are effective as orders when made and will continue to be effective unless modified or set aside by the court, the special master, or by written stipulation of the parties.

(2) **Sanctions.** A special master may issue sanctions only if specifically authorized by the court in the appointment order. A special master may not make a finding of contempt.

(3) **Existing orders.** Except as provided here, the court may not authorize a special master to issue directives that are contrary to or inconsistent with existing orders, judgments, or decrees. The court may authorize a special master to deviate from the parenting plan, but that authorization must be express and narrow in scope. Recognizing the special master's role may involve creating rules, clarifications, or additional requirements for the parties to follow to resolve disputes, the court may not authorize a special master to issue any decisions or modifications of orders that would otherwise require a judicial order.

(g) **Delivery and filing of decisions.** A special master must deliver all directives in writing to the parties. A special master must also file all directives with the court.

(h) **Objections and court review.**

(1) **Objections.** A party may object to a special master's directive by filing a written motion to modify or set aside a special master's directive within 14 days after the date of the special master's directive. A court may consider an untimely motion upon good cause shown.

(A) The motion must state succinctly and with particularity the directive challenged, the relief sought, and the grounds for the relief sought. Any evidence necessary to support the moving party's position must be presented by declaration.

(B) If the matter is assigned to a domestic commissioner, the requirements in Rule 101 relating to motions, responsive memoranda, counter motions, and documentation apply. Otherwise, the requirements in Rule 7 apply.

(2) **Court review.** The court will review the special master's directive de novo. In the event additional evidence is needed, the court may remand the matter to the special master for further proceedings.

(i) **Suspension or termination of special master's appointment.**

(1) **Suspension or termination by special master.** A special master may elect to suspend or terminate the special master's appointment by delivering a notice of suspension or resignation to all parties and filing the notice with the court. A special master may not suspend or terminate the appointment while an issue is pending before the special master.

(2) **Termination by the parties.** The parties may terminate the special master's appointment upon written stipulation filed with the court and served on the special master.

(3) **Termination by the court.** The court may suspend or terminate the special master's appointment on its own initiative or by motion of a party for good cause shown.

(4) **No unilateral termination.** Neither party may unilaterally terminate or modify the appointment of a special master by withdrawal of the party's stipulation to appoint the special master.

(j) **Use of special master for other issues.** This rule does not preclude the court from appointing a special master pursuant to Rule 53 for other issues outside of those listed in subparagraph (b)(2).

Effective Date --

TAB 5

CJA 3-403. Judicial branch education

Notes: The Standing Education Committee is proposing changes to rule 3-403 to make the rule applicable to all state employees who are not time-limited employees. This comes as law clerk attorneys asked whether the CJA applied to them under the current wording. The Standing Education Committee would also like to make rule 3-403 applicable to state employees, but not judicial officers or justice court employees, during the judiciary's performance year (April 1 - March 31). This allows supervisors to include education requirements in performance expectations and evaluations.

Rule 3-403. Judicial branch education.**Intent:**

To establish the Judicial Branch Education Committee's ("Committee") responsibility to develop and evaluate a comprehensive education program for all judicial officers and court staff.

To establish education standards for judicial officers and court staff, including provisions for funding and accreditation for educational programs.

To ensure that education programs, including opportunities for job orientation, skill and knowledge acquisition, and professional and personal development, are available to all members of the judicial branch and that such programs utilize the principles of adult education and focus on participative learning.

To emphasize the importance of participation by all judicial branch employees in education and training as an essential component in maintaining the quality of justice in the Utah courts.

Applicability:

This rule ~~shall apply~~applies to all judicial officers and court staff, except ~~seasonal employees and law clerk~~employees classified as time-limited pursuant to HR policies.

Statement of the Rule:**(1) Organization.**

(1)(A) **Judicial branch education committee.** The Committee ~~shall~~will submit to the Council for approval proposed policies, standards, guidelines, and procedures applicable to all judicial branch education activities. It ~~shall~~will evaluate and monitor the quality of educational programs and make changes where appropriate within the approved guidelines for funding, attendance, and accreditation.

(1)(B) **Responsibilities of members.** Committee members ~~shall~~will propose policies and procedures for developing, implementing, and evaluating orientation, continuing skill development, and career enhancement education opportunities for all judicial branch employees; formulate an annual education plan and calendar consistent with the judicial branch education budget; and serve as advocates for judicial branch education, including educating the judiciary about the purpose and functions of the Committee.

(1)(C) Committee meetings.

(1)(C)(i) The Committee ~~shall~~will meet twice a year. Additional meetings may be called as necessary. A majority of voting members in attendance is required for official Committee action.

(1)(C)(ii) The chairperson may recommend to the Council that a Committee member be replaced if that member is absent without excuse from two consecutive Committee meetings or fails to meet the responsibilities of membership as outlined in paragraph (1)(B).

(2) Administration.

Judicial Education Officer. The Judicial Education Officer, under the direction of the Court Administrator, ~~shall~~will serve as staff to the Committee and be responsible for the administration of the judicial education program consistent with this rule.

(3) Education standards for judicial officers.

(3)(A) Requirements for judicial officers (judges, court commissioners, active senior judges and active senior justice court judges).

(3)(A)(i) All new judicial officers ~~shall~~will participate in the first designated orientation program offered after the date the judge is administered the oath of office, unless attendance is excused for good cause by the Management Committee.

All judicial officers ~~shall~~will complete 30 hours of pre-approved education each fiscal year, to be implemented on a schedule coordinated by the Committee. To satisfy annual program requirements judicial officers will complete training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

Judicial officers may attend a combination of approved local, state, or national programs. Active and inactive senior judges and retired judges may attend approved local or state programs and the annual judicial conference, but an inactive senior judge or retired judge must pay all expenses.

(3)(A)(ii) **Inactive senior judges and retired judges.** If an inactive senior judge or a retired judge applies to be an active senior judge, the judge ~~shall~~will demonstrate that:

(3)(A)(ii)(a) he or she has attended 30 hours of approved judicial education within one year before the application; or

(3)(A)(ii)(b) he or she has attended the new judge orientation for judges of the courts of record within one year before the application.

(3)(B) Program components. Education programs for judicial officers ~~shall~~will include: a mandatory new judge orientation program; a variety of programs addressing substantive and procedural law topics, aimed at skill and knowledge acquisition; and programs geared to professional and personal development, to meet the continuing needs of judicial officers.

(3)(C) Annual conferences. Justice court judges and active senior justice court judges ~~shall~~will attend the annual justice court conference unless excused by the Board of Justice Court Judges for good cause. Because the annual judicial conference represents the only opportunity for judges to meet and interact as a group and to elect their representatives, judicial officers are strongly encouraged to attend that conference.

(4) Standards for court staff.

(4)(A) State employees.

(4)(A)(i) **Program requirements.** All court staff employed by the state ~~shall~~will complete 20 hours of approved coursework ~~annually~~during the performance year, as defined by HR policy. To satisfy ~~annual program performance year~~ requirements state employees must complete training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

(4)(A)(ii) **Program components.** Education programs for court staff employed by the state ~~shall~~will include: onboarding for new employees as well as new employee orientation; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth within the organization.

(4)(B) Local government employees.

(4)(B)(i) **Program requirements.** All court staff employed by the justice courts ~~shall~~will complete 10 hours of approved coursework annually.

(4)(B)(ii) **Program components.** Education programs for court staff employed by local government ~~shall~~will include: annual training seminar; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth. Professional and personal development programs may include training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

(5) Reporting.

(5)(A) Judicial officers and court staff governed by these standards ~~shall~~will report participation in education programs on a form developed by the Committee.

(5)(B) For court staff, compliance with judicial branch education standards ~~shall~~will be a performance criterion in the evaluation of all staff.

(5)(B)(i) Supervisory personnel are responsible to ensure that all staff have an opportunity to participate in the required education. Failure of a supervisor to meet the minimum education standards or to provide staff with the opportunity to meet minimum education standards will result in an unsatisfactory performance evaluation in the education criterion.

(5)(B)(ii) Failure of staff to meet the minimum education requirements will result in an unsatisfactory evaluation on the education criterion unless the employee provides documented reasons that the employee's failure to meet the education standards is due to reasons beyond the employee's control.

(6) Credit. Judicial education procedures ~~shall~~will include guidelines for determining which programs qualify as approved education within the meaning of these standards.

(7) Funding.

(7)(A) **Budget.** In preparing its annual request for legislative appropriations, the Council ~~shall~~will receive and consider recommendations from the Committee. The Committee's

annual education plan ~~shall~~will be based upon the Council's actual budget allocation for judicial education.

(7)(B) **In-state education programs.** Judicial branch funds allocated to in-state judicial education ~~shall~~will first be used to support mandatory in-state orientation programs for all judicial branch employees and then for other education priorities as established by the Committee with input from the Boards of Judges and Administrative Office.

(7)(C) **Out-of-state education programs.** To provide for diverse educational development, to take advantage of unique national opportunities, and to utilize education programs which cannot be offered in-state, the annual education plan ~~shall~~will include out-of-state education opportunities. The Committee ~~shall~~will approve national education providers and ~~shall~~will include in the education procedures, criteria to be applied by the Administrative Office to out-of-state education requests. Criteria ~~shall~~will include relevance to the attendee's current assignment and attendance at in-state programs. Disagreement with a decision to deny an out-of-state education request may be reviewed by a quorum of the Committee at the applicant's request.

(7)(D) **Tuition, fees, and travel.** The Committee ~~shall~~will develop policies and procedures for paying tuition, fees, per diem, and travel for approved programs. State funds cannot be used to pay for discretionary social activities, recreation, or spouse participation. The Committee may set financial limits on reimbursement for attendance at elective programs, with the individual participant personally making up the difference in cost when the cost exceeds program guidelines.

(8) Mentoring.

(8)(A) Within seven business days after a new district or juvenile judge has been sworn in, the Presiding Judge ~~shall~~will appoint a mentor to the new judge.

(8)(B) Within fourteen business days after a new district or juvenile judge has been sworn in, the mentor and the new judge ~~shall~~will meet and review the Judicial Mentoring Guidelines and Best Practices Recommendations, complete the Mentors' Checklist contained therein and the mentor, within that same fourteen business day period, ~~shall~~will provide the completed Mentor's Checklist to the Judicial Education Officer.

Effective: ~~5/30/2024~~May 1, 2025

TAB 6

CJA Appendix A. Justice Court Nominating Commissions Procedure Manual

Notes: See attached request form

Date of Request *

MM DD YYYY

04 / 11 / 2025

Name of Requester *

Jim Peters

Requester Phone Number *

(801) 578-3824

Name of Requester's Supervisor *

Ron Gordon

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

Appendix A to the Code of Judicial Administration

Brief Description of Rule Proposal *

This manual establishes the procedures for justice court nominating commissions. Among other things, it requires that anyone wanting to be considered for a judgeship in the justice courts submit a paper application (with multiple copies). It also requires that applicants cover the cost of a credit check performed by the AOC. Proposed revisions would require applicants to use an online portal that has been developed by DTS, dispense with the credit check, and updates the process in other ways.

Reason Amendment is Needed *

Applications could be processed more efficiently if they were received electronically. As applicants are generally surprised that it's not an option to apply online, the new portal will be an improvement for all involved. Amending the manual to dispense with credit checks will save the AOC from having to comply with the Fair Credit Reporting Act and save the \$1,200 per year that it costs to have an account with Experian.

Is the proposed amendment urgent? *

☐ Yes☒ No

If urgent, please provide an estimated deadline date and explain why it is urgent.

While not urgent, it would be ideal to have the amendments effective before the next judicial vacancy occurs-- which will likely be before November 1, 2025.

Select each entity that has approved this proposal. *

- ☐ Accounting Manual Committee
- ☐ ADR Committee
- ☐ Board of Appellate Court Judges
- ☐ Board of District Court Judges
- ☒ Board of Justice Court Judges
- ☐ Board of Juvenile Court Judges
- ☐ Board of Senior Judges
- ☐ Budget and Fiscal Management Committee
- ☐ Children and Family Law Committee
- ☐ Clerks of Court
- ☐ Court Commissioner Conduct Committee
- ☐ Court Facility Planning Committee
- ☐ Court Forms Committee
- ☐ Ethics Advisory Committee
- ☐ Ethics and Discipline Committee of the Utah Supreme Court
- ☐ General Counsel
- ☐ Guardian Ad Litem Oversight Committee
- ☐ HR Policy and Planning Committee
- ☐ Judicial Branch Education Committee
- ☐ Judicial Outreach Committee
- ☐ Language Access Committee
- ☐ Law Library Oversight Committee
- ☐ Legislative Liaison Committee
- ☐ Licensed Paralegal Practitioner Committee
- ☐ Model Utah Civil Jury Instructions Committee
- ☐ Model Utah Criminal Jury Instructions Committee

- ☐ Policy and Planning member
- ☐ Pretrial Release and Supervision Committee
- ☐ Resources for Self-Represented Parties Committee
- ☐ Rules of Appellate Procedure Advisory Committee
- ☐ Rules of Civil Procedure Advisory Committee
- ☐ Rules of Criminal Procedure Advisory Committee
- ☐ Rules of Evidence Advisory Committee
- ☐ Rules of Juvenile Procedure Advisory Committee
- ☐ Rules of Professional Conduct Advisory Committee
- ☐ State Court Administrator
- ☐ TCE's
- ☐ Technology Committee
- ☐ Uniform Fine Committee
- ☐ WINGS Committee
- ☐ None of the Above

If the approving entity (or individual) is not listed above, please list it (them) here.

.....

List all stakeholders who would be affected by this proposed amendment. *

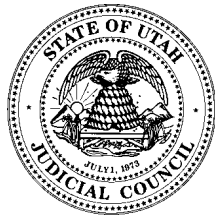
These revisions would benefit the applicants for judicial office, the nominating commissions that review the applications, and the AOC staff that process them.

.....



Utah State Courts

Manual of Procedures
for
Justice Court Nominating Commissions



20~~25~~⁴⁶

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

| [\[Type here\]](#)

Manual of Procedures
for
Justice Court Nominating Commissions
20~~25~~⁴⁶

Prepared by
Administrative Office of the Courts
POB 140241
450 S State St
Salt Lake City, UT 84114-0241
www.utcourts.gov

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(1) List of Utah Judicial Nominating Commissions by Counties

Counties Served	District
Box Elder, Cache, Rich	1
Davis, Morgan, Weber	2
Salt Lake, Summit, Tooele	3
Juab, Millard, Utah, Wasatch	4
Beaver, Iron, Washington	5
Garfield, Kane, Piute, Sanpete, Sevier, Wayne	6
Carbon, Emery, Grand, San Juan	7
Daggett, Duchesne, Uintah	8

Nominating ~~committees~~ commissions are formed ~~in a county~~ as needed by county to fill a ~~judicial vacancy~~ iesy in justice courts. Individuals appointed to these ~~committees~~ commissions serve a four--year term and may be asked to participate any time a new vacancy occurs within that county during their term. Two additional commission members selected by the local government which has posted the vacancy (see Composition of Utah Judicial Nominating Commissions) are not subject to the four--year term.

(2) Introduction

Utah ~~j~~udicial ~~n~~ominating ~~e~~commissions serve a critical function. The work of a commission marks the beginning of a process that culminates in the appointment ~~by the local government executive~~ of a new member of the judiciary by the local government executive. Service on a judicial nominating commission is, ~~therefore~~, a serious undertaking. It requires a willingness to devote the time and energy to nominate the candidates who will most effectively enhance the quality of the bench. It requires the discipline to work in a group and within the confines of a strict timetable. It requires the commitment to proceed through the various steps of the judicial nomination process with care and integrity. While the work of a judicial nominating commission is both concentrated and time consuming, participants will find satisfaction in the knowledge that their work directly improves the quality of Utah's ~~j~~udiciary lsystem.

Throughout their thoughtful and impartial deliberations, the commissioners must hold the public interest foremost in the decision--making process. The quality of Utah's ~~j~~udiciary rests initially in the nomination of qualified candidates by the commissioners. The commissioners have many applicants from which to choose. Consequently, only extreme diligence by the nominating commission assures that all of the nominees submitted to the local government executive will strengthen ~~the state's~~ Utah's ~~j~~udiciary.

This manual was developed to assist Utah's ~~j~~udicial ~~n~~ominating ~~e~~commissions by providing a common background of information and by establishing guidelines both for commission procedures and applicant evaluation. Its goal is to enhance the efficiency of the nominating process by resolving procedural issues and preserving the time of the commissioners for a more thorough investigation and evaluation of applicants. It also

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Seeks to articulate the qualifications and some of the more important qualities necessary for judicial office, thus providing practical guidelines for applicant evaluation.

(3) Merit Selection of Judges

The office of judge is unique in our society. A judge is a public servant holding an office of high public trust and, as such, so should answer to the public. However, the obligation of a judge is to resolve disputes impartially and base decisions solely upon the facts of the case and the law. A judge, therefore, should be insulated from public pressure.

The federal government and the states balance the competing interests of judicial accountability and judicial independence in a variety of ways. A federal judge, for example, is almost completely insulated from public pressure by serving a life term. There are two basic approaches to judicial selection and retention at the state level. Judges of many states face periodic partisan or nonpartisan elections which force them to act as politicians as well as jurists. Other states, including Utah, have decided to choose their judges by merit selection.

Merit selection was developed as an alternative to the federal system and to state systems requiring that judges run in contested elections, both of which have been criticized as unduly politicizing the judiciary and undermining the integrity of the law. Merit selection plans have been in the process of development in many states since 1913 under the auspices of the American Judicature Society, a non-profit, non-partisan organization formed to improve the judicial selection process. Utah initially developed its merit selection system by statute in 1967 to govern gubernatorial appointments and combined it with nonpartisan, contested elections for retention. The revised Judicial Article of the Utah Constitution, effective July 1, 1985, established merit selection as the exclusive method of choosing a state court judge. Legislation passed in 1994 changed the composition of the nominating commissions and the method of selecting commission members. Legislation passed since has resulted in additional changes. However, despite the changes in the commission composition and selection, the over-arching goal of the system -- the nomination and appointment of the best qualified candidates on a nonpartisan basis -- remains unchanged. As stated in the Utah Constitution: "Selection of judges shall be based solely upon consideration of fitness for office without regard to any partisan political consideration."

There are five steps in the Utah merit selection plan: nomination, appointment, confirmation, certification and retention. The nomination of judges includes several steps preceding the selection of nominees. A commission has 45 days from its first meeting to complete this process. The steps of the nomination process include:

- the application process;
- screening of applicants by commission staff to determine minimum constitutional qualifications for office;
- the organizational meeting, including an opportunity for the public to provide input testimony;
- the review screening of applicants by the commission based only on the application materials;
- the summary investigation of applicants by staff;
- investigation of the applicants as directed ~~determined~~ by the commissioners;
- ~~the screening of applicants prior to interviews;~~

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- preparation for the interviews;
- personal interviews of the candidates;
- selection of a preliminary list of nominees;
- public dissemination of the names of the proposed nominees and public comment upon their qualification for office;
- further investigation of the proposed nominees as determined by the commissioners;
- final selection of the nominees; and
- submitting the nominees to the local government executive.

The local government executive must appoint one of the nominees within ~~thirty~~ 30 days of receiving the nominations. That appointment must then be ratified by the local legislative body and certified by the Utah Judicial Council.

After certification by the Judicial Council, the new judge assumes the duties of the bench for at least three years before facing the first unopposed retention election. Judicial retention elections are held in even-numbered years as part of the state's general elections. In the unopposed retention election, the electorate is asked whether the judge should be retained in office. Thereafter, the term of office of a judge is six years. At the end of each term of office, the judge faces another unopposed retention election.

(4) Composition of Utah Judicial Nominating Commissions

~~The justice court nominating commissions and their composition are established by statute, and their composition is determined by statute.~~ A county justice court nominating commission will be created when there is a vacant justice court judge position or when a new position is created. Membership of the county justice court nominating commission shall must include:

1. One member appointed by the county commission if the county has a commission form of government

OR

The county executive if the county has an executive-council form of government

2. One member appointed by the municipalities in the counties as follows:

-If the county has only one municipality, appointment shall will be made by the governing body of that municipality; or

-If the county has more than one municipality, appointment shall will be made by a municipal selection committee composed of the mayors of each municipality in the county

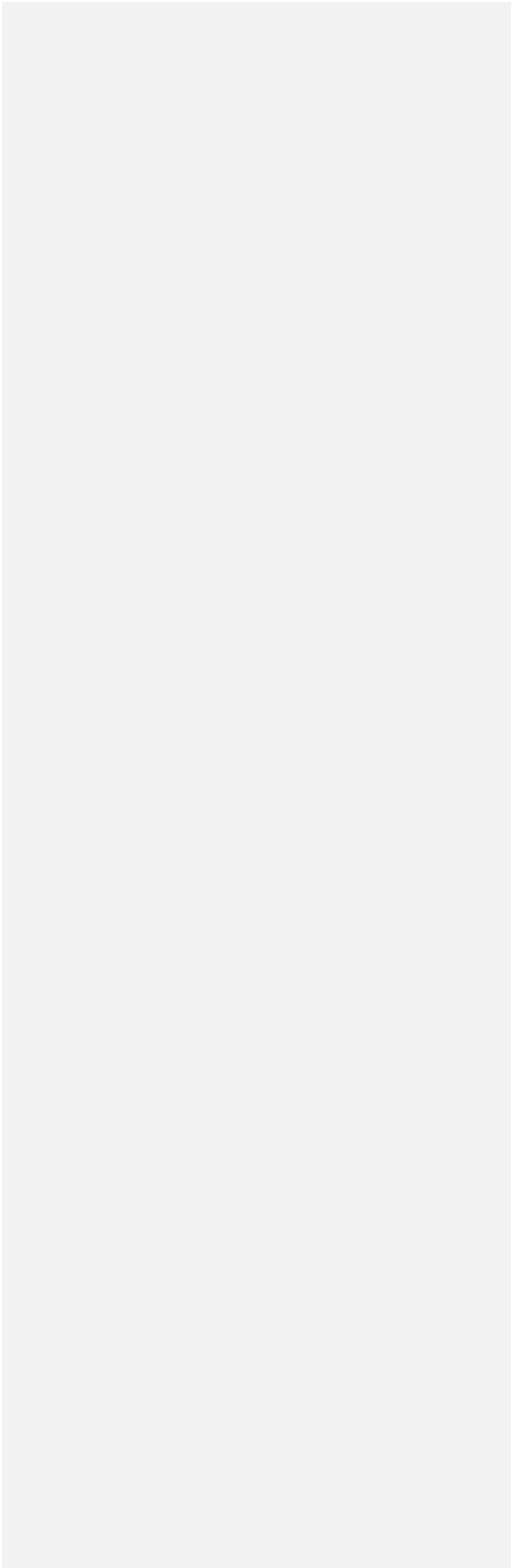
3. One member appointed by the county bar association

-If there is no county bar association, the member shall will be appointed by the regional bar association. If no regional bar association exists, the state bar association shall will make the appointment

4. Two members appointed by the governing authority of the jurisdiction where the judicial office is located

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123 Reference Table:



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Number <u> </u> of appointees	Appointing Authority	<u>Can</u> <u>Appointee be</u> <u>an Elected</u> <u>Official?</u>	Term of Appointment
1	County commission/executive	<u>No</u>	4 years
1	Municipality/Municipal <u> </u> selection <u> </u> committee comprised of mayors of each municipality	<u>No</u>	4 years
1	County Bar Association	<u>Yes</u>	4 years
2	Governing authority of the jurisdiction where judicial vacancy is located	<u>Yes</u>	No <u> </u> term <u> </u> <u> </u> varies <u> </u> by vacancy

Certain ~~No~~ nominating commission members may not be elected officials of the county or municipality. Members of the commission are not eligible to apply for judicial vacancies within the appointing county during their term and may not be closely related to an applicant (see 6c). Commissioners are not paid for their work, but they may receive reimbursement for any necessary expenses incurred in the performance of their duties.

(5) The Application Process

(a) Notice of Vacancy

The notice of vacancy is in the form of a press release. The notice includes the jurisdiction of the court, the ~~constitutional~~ minimum requirements for judicial office (see Section 7, Evaluation Criteria), a brief description of the work of the court, ~~the method for obtaining application forms, a link to the application portal,~~ the application deadline, the names and cities of residence of commission members, when available (if appointments are pending, this will also be indicated), and the method for submitting oral or written testimony at the organizational meeting.

The notice is prepared by the Administrative Office of the Courts, and it is then posted to the Public Notice Website, emailed to members of released to the Salt Lake Tribune, the Deseret News, the Utah State Bar, and released to newspapers major media outlets that cover with circulation within the geographic venue of the court. ~~Press releases are also provided to the network affiliated television stations in Salt Lake City.~~

(b) Applications

Application for judicial vacancies in a justice court must be made online at www.justicecourtvacancies.utah.gov. At this portal, the applicant must complete forms and the required waivers are available from and should be submitted to the Administrative Office of the Courts, Attention: Judicial Nominations, P.O. Box 140241, Salt Lake City, Utah 84114-0241 or at Scott M. Matheson Courthouse, 450 South State Street, Suite N31. ~~Application and waiver forms are available on preprinted forms and in an electronic format.~~

~~The application package consists of the following:~~

~~An original and six copies of the application form, upload a~~

~~An original and six copies of the applicant's resume, waive~~

~~a) A check or money order payable to the Administrative Office of the Courts for \$8.70 to cover the cost of a credit check.~~

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~~b) A waiver of the right to review the records of the commission, and the A waiver of confidentiality of records, and provide a A one-paragraph summary of professional qualifications that will be made available to the public if the applicant is selected to be the new judge's name is released for public comment prior to nomination.~~

The waiver of confidentiality pertains to records which are the subject of investigation by the commission.

~~If the applicant has applied for another judicial position within the prior year, the applicant may submit copies of the application package from the previous vacancy with a letter of interest that includes a summary of any changes to the previous application package and a check or money order for the credit check.~~

(i) Adverse References

The application provides space for listing references. However, letters of recommendation are not submitted by the applicant. The judicial nominating commission selects from among the references listed, and the commission or its staff contacts the references.

(ii) Reference Letters

The judicial nominating commission or its staff contacts ~~a minimum of three up to five~~ of the references listed on the application form and requests the references to complete and submit a standard reference letter approved by the Judicial Council. The commission may designate other references to be contacted either by the standard reference letter or by other means.

(iii) Deadline

The deadline for filing applications is established by the published notice. The minimum application period is ~~45~~30 days, but the notice of vacancy may provide for an extended application period. ~~If fewer than nine applications are received the vacancy must be announced for an additional 15 days. If, in counties of the first and second class, there are not at least three qualified applicants. If there are not at least two applicants for a justice court judge position who have a degree from a law school that makes one eligible to apply for admission to a bar in any state, the justice court nominating commission may re-advertise the position and accept applications from individuals who do not have a law degree. the position shall be re-advertised and applications may be accepted from persons who are not residents of the county or an adjacent county in which the court is located. Also in such circumstances applicants would only be required to have, at the minimum, a high school diploma or GED. See U.C.A. §78A-7-201.~~

~~The application is considered submitted upon receipt by the Administrative Office of the Courts with inclusion of all required application materials listed above. The Administrative Office of the Courts is not responsible for applications mailed but not delivered.~~

A notice of receipt is sent to the email address provided by the applicant. ~~If the application is incomplete, the applicant is notified of the deficiency. The application may not be considered timely filed unless the deficiency is corrected before the application period closes.~~

(c) Recruitment

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If commissioners wish to solicit individuals to apply for judicial vacancies they may do so directly or request that staff from the Administrative Office of the Courts solicit applications of specific individuals by writing a letter indicating that the individual's name has been referred as a potential judicial applicant and inviting the individual to submit an application. If a third party presents the name of a potential applicant to a commissioner, the same procedure should be followed. ~~Staff members should not personally solicit applications without a request by a commissioner.~~

(d) Pre-screening by Staff

After the expiration of the filing deadline, the staff person assigned to a nominating commission reviews the applications to screen out those applicants not meeting the minimum ~~constitutional~~ qualifications for office. A list of any applicants identified as not meeting the minimum qualifications and the deficiency is provided to all commissioners. ~~Staff will notify T~~ those applicants not successfully passing the pre-screening ~~are advised by letter email from the staff.~~

(e) Distribution of Application Materials

After the close of the application process, the staff to the commission ~~provides access to delivers a copy of~~ each application and resume and a list of all applicants in alphabetical order to the commissioners. ~~Access to A~~ all application materials ~~will be revoked are returned to the staff of the commission~~ at the close of the nomination process in accordance with the section governing records.

(6) Organizational Meeting

(a) Introduction

The date, time, and place of the organizational meeting are published as a part of the notice of the vacancy or in a separate public notice. ~~If possible, C~~ commissioners are notified individually of the commission's first meeting ~~prior to before~~ the public notice ~~if possible~~. The organizational meeting should be held as soon as practicable after the close of the application deadline.

The importance of this initial meeting cannot be overstated. If the commission is not well organized, it likely will face problems later. The least of these problems is the inefficient use of limited time. More serious problems such as breaches of ethics and confidentiality or disputes over voting procedures may develop. The organizational meeting is used to anticipate these problems before they occur.

The commission ~~should must~~ accomplish five things during the organizational meeting.

During the public portion of the meeting:

1. The commission ~~should must~~ discuss issues of ethics and legal obligations (6c).
2. The commission ~~should must~~ consider any administrative or procedural questions (6d).
3. The commission ~~should must~~ develop a realistic time table in which to accomplish its many tasks (6e).
4. The commission ~~should must, upon request~~, receive oral and written testimony from the public about community needs, the qualifications for the judicial office, and the nominating process, but not about individual applicants (6f).

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254 After the public portion of the meeting, the commission ~~shall~~will go into executive session
255 to discuss the qualifications of applicants and make an initial screening of the applicants.
256 This initial screening of applicants by the commission is based upon the information
257 contained in the application materials (6g).

258 (b) Conduct of Meetings

260 The chair of each nominating commission presides at all meetings and ensures that
261 each commissioner has the opportunity to be a full participant in the commission process.
262 For the purpose of organizing the first meeting, the chair of each nominating commission
263 will be the appointed representative from the Bar. During the nominating commission's
264 first meeting, the commission will select a chair. All commission members ~~shall~~will have
265 the opportunity to question applicants and to discuss the qualifications of applicants. In
266 questioning applicants and discussing the qualifications of applicants, the chair ~~shall~~will
267 speak last.

268 (c) Ethical and Legal Obligations

270 The organizational meeting is the appropriate time and place to address any issues
271 regarding commission ethics that may be of concern. It is far better ~~to try~~ to anticipate
272 problems and avoid them rather than ~~to try~~ing to solve them once they occur. The goal of
273 commissioners should be to avoid not only impropriety itself, but also the appearance of
274 impropriety.

275 **Failure to Follow Law or Procedures.** If a commissioner fails or refuses to follow
276 statutes, rules, or this manual regulating the nomination of candidates, the commissioner
277 is disqualified from the commission, and the local government executive ~~shall~~will appoint
278 a replacement as provided by statute.

279 **Confidentiality.** The names of the nominees are released to the public for the purpose
280 of comment prior to submission to the local government executive, and the application
281 materials and investigation reports for the nominees are forwarded to the local
282 government executive. Otherwise, the policy in Utah is to maintain the confidentiality of
283 all applicants and of all investigation sources. Subject only to the responsibility to report
284 violations of the law and breaches of professional ethics, information provided by the
285 applicant and information gathered as a result of the investigation are not disclosed.
286 However, if an applicant is selected as a nominee, the application package of the nominee
287 and the results of any investigation, including information from investigation sources, are
288 forwarded to the local government executive. The application and investigation results
289 are not otherwise disclosed by the commission.

290 **Relationship to the Applicant.** Perhaps one of the most common problems faced by
291 nominating commissions is that some commissioners have a business, professional, or
292 personal relationship to one or more of the applicants. Commissioners are required to
293 disclose to the commission the existence and nature of such relationships, including any
294 adverse relationship. These declarations should be made prior to screening the
295 applicants. If an applicant is a commissioner's spouse or a person within the third degree
296 of relationship to a commissioner, (grandparents; parents or parents-in-law; aunts or
297 uncles; children, nieces and nephews and their spouses) that commissioner must
298 disqualify him/herself from the nominating commission process. If a commissioner

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declares some other type of relationship with an applicant, the other commission members must decide if that relationship constitutes a conflict of interest. If they so decide, the commissioner disclosing the relationship must ~~disqualify-recuse~~ him/herself from ~~voting on that applicant the nominating commission process~~. If the other commission members decide, by a majority vote, that the relationship does not constitute a conflict of interest, the commissioner disclosing the relationship may ~~participate in the process~~ vote on that applicant. Only declarations which are determined by the commission to pose a conflict of interest are recorded in the minutes of the meeting. ~~If a commissioner is recused for a conflict of interest or is otherwise unable to serve, the vacant position is filled by the appropriate appointing authority. The commissioner may continue to serve until a successor is appointed, but the commissioner may not vote for so long as the grounds for recusal continue. If the grounds for recusal are eliminated, the commissioner shall participate fully in the nomination process.~~

Solicited Information. Commission members should inquire on their own regarding the qualifications of judicial applicants. Commissioners should seek information from any source likely to provide insight into the qualifications and ability of individual applicants to serve in the judiciary, including but not limited to attorneys, judges, members of the executive and legislative branches of government, business associates, neighbors, and acquaintances. The commission should not solicit information from clients of lawyer applicants, unless the applicant has approved the solicitation. The names of applicants are formally confidential during this phase so inquiries should be discreet. However, it obviously will be necessary to reveal the name of an applicant when inquiring of others about the applicant. Information so gathered will be helpful to the commission in the process of its deliberations.

Unsolicited Information. The commission may receive unsolicited information or statements from third parties supporting or opposing an applicant. These should be received, considered, and, if appropriate, investigated. The response to the writer or caller should be uniform. The commission member or its staff should explain the impartial procedures that all applicants must complete and thank the individual for the information.

Contact with an Applicant. Commissioners should refrain from discussion with an applicant about his/her application. Feedback on interview performance should not be provided by commission or staff members to applicants.

Commissioner Bias. All people have particular philosophies and viewpoints. Commissioners can only realize that these biases exist and make every effort to ensure that they do not cloud the decision making process.

Legal Requirements. Sections of the Utah Constitution and Code applicable to the nomination and election of judges are provided to commission members.

(d) Administrative Issues

The organizational meeting should be used to answer any questions or concerns of the commissioners. A few issues are outlined here.

Reimbursement of Expenses. Commissioners are entitled to be reimbursed for all actual and necessary expenses incurred in the course of their duties as commissioners.

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Mileage records and expense receipts should be submitted to the staff person assigned to the commission at, or soon after, the final meeting of the commission. Note, however, that if the work of the commission begins in one fiscal year and continues into the next fiscal year, expenses must be reimbursed with funds from the year in which the expenses were incurred. Requests for reimbursement of expenses incurred during one fiscal year must be submitted no later than July 20 of the next fiscal year. The fiscal year ends June 30.

Records. By statute, the Administrative Office of the Courts serves as staff to each of the nominating commissions. ~~Forms are available from and a~~All records of the commissions are maintained in that office. The notes of the commissioners are their own and are not filed with the Administrative Office of the Courts.

Summary minutes only, and not verbatim minutes, are maintained of all commission meetings including interview meetings and voting meetings. The minutes include:

- a) The date, time, and place of the meeting.
- b) A list of the commissioners present and a list of those absent or excused.
- c) A list of staff members present.
- d) A general description of the nature of the business to be conducted.
- e) A general description of the decisions made.
- f) Any declarations by commissioners of a relationship, interest, or bias concerning any applicant.
- g) A record of the total tally of all votes, but not the vote of individual commissioners.
- h) Written statements submitted to the commission regarding issues facing the judiciary.
- i) Any other matter desired by the commission to be recorded.

All records of the commission are maintained by the staff member assigned to the nominating commission by the Administrative Office of the Courts, but are not subject to public disclosure. The records are maintained until the appointee of the local government executive takes the oath of office. The records are then destroyed.

Quorum. Three commissioners must be present to conduct any business. Commissioners may be present through electronic means such as telephone or video conferencing. If a written ballot is required of a commissioner present through electronic means, the commission may submit the vote by ~~fax,~~ electronic mail, or other electronic means. The commission should take steps to secure the confidentiality of debate and votes made by electronic means.

(e) Timetable

The commission should develop a timetable of specific dates for the completion of the various steps in the nomination process. The commission should establish a deadline for each interim step in the process. Including the organizational meeting, commissioners will usually meet formally two to three times.

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(f) Public Testimony

The public portion of the organizational meeting is used to ~~develop~~receive oral and written testimony about issues of local concern, the general qualifications of judges, and constructive recommendations to the Judiciary. Statements concerning particular applicants or cases are prohibited. It is important at the initial meeting to develop a good sense of the interests of the communities served by a court. ~~This is especially difficult in Utah where the jurisdiction of a court usually covers several counties.~~

The procedure for submitting written statements or a request for time to deliver an oral statement at the organizational meeting is as follows. Any interested person or organization may submit written statements to the Administrative Office of the Courts. A written statement may be accompanied by a request for time to present the statement orally to the commission. Requests for time to present an oral statement are not preferred unless accompanied by the written statement. The chair of the commission may permit a person to present an oral statement without submitting a written statement. A maximum time limit for oral statements is ~~five~~three minutes. A judge appointed by the Board of Justice Court Judges is invited to speak to the commission to address the importance of justice court judge selection without submitting a written statement.

The chair of the commission retains the discretion to deny a written request for oral testimony only to ensure the orderly conduct and timely completion of the public portion of the organizational meeting. If permission to provide oral testimony is granted, the person requesting permission is notified by staff in the Administrative Office of the Courts. All written statements become a part of the record of the commission. The substance of the statement and identification of the author are publicly disclosed at the organizational meeting. The statement may be read verbatim.

(g) Initial Screening by Commission

A screening process may be needed to reduce the number of applicants to a manageable number for purposes of further investigation and selecting candidates for interview. The initial screening should occur at the organizational meeting and is based upon the applicants' application and resume, and other application materials.

The objective of the commission in screening applicants is not to retain all applicants who may conceivably be qualified for further investigation and interviews ~~all applicants who may conceivably be qualified~~ but to retain enough applicants so as to be reasonably certain that the best qualified applicants are among them, given the information available to the commission at the time, the number of vacancies to be filled, and the overall quality of the applicant pool. The commission members review the application materials available, discuss the qualifications of the applicants, compare the information with the evaluation criteria, and vote to retain or eliminate an applicant. Depending upon the size and relative qualifications of the applicant pool, the commission may complete the screening at the organizational meeting, or the commission may complete the screening at a subsequent meeting at which the results of the investigation are made available.

During the initial screening, unrestricted voting is acceptable. However, when voting for final nominees, voting is conducted by confidential ballot. Each commissioner is provided a ballot with the names of all applicants to be voted upon in alphabetical order.

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Next to each applicant's name is a space designated "yes" and a space designated "no." The commissioner casts an affirmative or a negative vote for each applicant. The votes are tallied by the staff person and chair of the commission. All applicants receiving at least three affirmative votes ~~shall~~will be retained for further consideration. If, after voting, the commission determines there are too many applicants remaining given the number of vacancies and the overall quality of the applicant pool, the commission may further discuss the qualifications of applicants and conduct another round of voting. For each applicant retained after ~~screening the review~~ is concluded, the commission identifies ~~the~~ which five references listed by the applicant are to be contacted by staff.

The total vote tally, but not the vote of individual commissioners, is recorded in the minutes of the commission. After the total vote tally is verified and recorded, the voting ballots are destroyed.

Those applicants not selected for investigation and a possible interview ~~shall~~will be notified by the commission staff.

(7) Investigation of Screened Applicants; Further Screening

(a) Summary Staff Investigation of Applicants

After screening out those applicants not meeting the minimum ~~constitutional~~ requirements, and after initial screening by the commission, the Administrative Office of the Courts conducts a summary investigation of all remaining applicants. The commission may conduct a further investigation, or may direct staff to do so, of any applicant remaining after screening.

As a part of the summary investigation, the staff person ~~shall~~will:

~~a) *Order a summary credit check of the applicant.~~

~~b)a)~~ Contact a ~~minimum of three~~maximum of five references listed by the applicant and designated by the commission for a recommendation.

~~e)b)~~ Contact the disciplinary committee of any state bar of which the applicant is or was a member to determine the existence of any disciplinary action.

~~d)c)~~ Contact the judicial disciplinary agency of any jurisdiction where the applicant was a judge to determine the existence of any disciplinary action.

~~e)d)~~ *Contact the Bureau of Criminal Identification (BCI) to determine whether the applicant has any criminal record.

~~*May be completed during pre-screening process depending upon the size of the applicant pool.~~

An applicant's personal physician may be contacted and asked to disclose the particulars of an applicant's medical history only if the sound mental health of an otherwise qualified applicant becomes an issue of concern to the commission. Any inquiry will be limited to information necessary to resolve the particular concern.

Because an applicant may be screened from further consideration based on the results of the investigation, the applicant may have no opportunity to rebut claims made during the investigation. Therefore, it is essential that the investigation be thorough and without errors.

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(b) Further Investigation by Staff and Commission

The commission may direct that a more in-depth background investigation be conducted by the staff of the Administrative Office of the Courts on any applicant remaining after screening. In addition to coordinating a background check with law enforcement agencies to determine if the applicant has been or is the subject of a criminal investigation or has any record of past criminal activity, Sstaff conducting the investigation ~~should accomplish the following might also:~~

~~Coordinate a background check with law enforcement agencies to determine if the applicant has been or is the subject of a criminal investigation or has any record of past criminal activity.~~

- a) Contact current or former employers, partners, or associates.
- b) Contact any listed professional and civic organizations to determine the level of the applicant's activity.
- c) Contact any references listed by the applicant.
- d) Follow up on any areas of concern raised by any member of the nominating commission or otherwise revealed during the screening process.

In addition to any investigation conducted by staff, commission members should inquire on their own regarding the qualifications of judicial applicants. Commissioners should seek information from any source likely to provide insight into the qualifications and ability of individual applicants to serve in the judiciary, including but not limited to attorneys, judges, members of the executive and legislative branches of government, business associates, neighbors, and acquaintances. The commission should not solicit information from clients of applicants, unless the applicant has approved the solicitation. The names of applicants are formally confidential during this phase so inquiries should be discreet. However, it ~~obviously~~ will be necessary to reveal the name of an applicant when inquiring of others about the applicant.

(c) Report of Investigation Results

Prior to the meeting for the further screening of applicants and the selection of candidates for interview, or, if no subsequent screening is needed to reduce the applicant pool further, prior to the meeting for interviews, each commissioner receives access to the following for each applicant:

- a) A copy of the application form and resume.
- b) A summary report of information contained in the application and information gathered as a result of the staff investigation. ~~Credit check and~~ BCI information is summarized orally with the nominating commission. This information may be shared with the commission during the initial meeting and screening of applicants if the size of the applicant pool warrants only one meeting prior to interviews. The summary report is intended only as a tool for the commissioners in organizing the often voluminous information. The report contains neither recommendations nor evaluations concerning the applicant.
- c) Copies of reference letters received.

(d) Further Screening and Selection of Interviewees

If there is a second screening of applicants before interviews, the commission screens the applicants based upon the results of investigations. The commission should

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conduct the voting for this subsequent screening of applicants in the same manner as the initial screening.

(8) Evaluation Criteria

(a) Constitutional and Statutory Minimum Requirements

U.C.A. Section 78A-7-201 requires that a justice court judge be:

Citizenship. A citizen of the United States.

Age. U.C.A. Section 78A-7-201 requires that a justice court judge must be 25 years old or older.

Residency. Justice court judges must be a resident of the county in which the court is located or an adjacent county for at least six months Utah for at least three years immediately preceding appointment and be a qualified voter of the county in which the judge resides, and

Education Requirements. In counties of the first and second class, a justice court judge shall have a degree from a law school that makes one eligible to apply for admission to the bar in any state. In counties of the third, fourth, fifth and sixth class, a justice court judge shall have at the minimum a high school diploma or GED.

Restricted Activities. Section 78A-7-206 of the Utah Code establishes further restrictions on the activity of judges.

(1) A justice court judge may not appear as an attorney in any criminal matter in a federal, state, or justice court or appear as an attorney in any justice court or in any juvenile court case involving conduct which would be criminal if committed by an adult.

(2) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.

(3) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.

(4) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.

(b) Qualities of Judges

The following criteria for evaluating applicants are derived from the American Bar Association's Guidelines for Reviewing Qualifications of Applicants for State Judicial Office, which offer some guidance for determining "fitness for office." Following the ABA guidelines are some additional considerations. ~~Although not all justice court judges are required to be attorneys, these modified guidelines provide useful suggestions and standards for all applicants.~~

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(i) American Bar Association Guidelines

Introduction

Below is a section of the American Bar Association Guidelines that are applicable to the justice court judge. These guidelines are intended for use by bar association committees and judicial nominating commissions which are evaluating applicants for state and local judicial office. It is assumed that the evaluators desire to recommend to the electorate or to the appointing authority the applicants who are most qualified by virtue of merit.

The guidelines attempt to identify those characteristics ~~to be sought after of highly qualified in the~~ judicial applicants. They attempt to establish criteria for the prediction of successful judicial performance. The identified traits are not mutually exclusive and cannot be wholly separated one from another. The outlined areas have been selected as essential for inquiry in considering all applicants for judicial office. With the exception of integrity, which is always indispensable, the degree to which the characteristics should be present in any particular applicant may vary in relation to the responsibility of the office.

These guidelines are not intended to deal with methods or procedures for judicial selection; nor are they intended to provide specific operating rules for the commissions and committees. The guidelines are not intended as a definitive review of the qualifications of sitting judges when being considered for retention or evaluation, since judicial experience will ~~then~~ provide important additional criteria which are treated elsewhere.

It is hoped that the use of these guidelines, if made known to the public and the press, will enhance the understanding and respect to which the judiciary is entitled in the community being served. The ultimate responsibility for selecting the judiciary is in the appointing power of any given judicial system. The function of these guidelines is to present minimum criteria for appointment; the more rigorous the criteria the better the quality of the judiciary.

1. Integrity. An applicant should be of undisputed integrity.

The integrity of the judge is, in the final analysis, the keystone of the judicial system; for it is integrity which enables ~~a judge~~ to disregard personalities and partisan political influences and enables ~~him or her them~~ to base decisions solely on the facts and the law applicable to those facts. It is, therefore, imperative that a judicial applicant's integrity and character with regard to honesty and truthfulness be above reproach. An individual with the integrity necessary to qualify must be one who is able, among other things, to speak the truth without exaggeration, admit responsibility for mistakes and put aside self-aggrandizement. Other elements demonstrating integrity are intellectual honesty, fairness, impartiality, ability to disregard prejudices, obedience to the law and moral courage.

An applicant's past personal and professional conduct should demonstrate consistent adherence to high ethical standards. If applicable, the evaluator should make inquiries of judges before whom the applicant has appeared, and among other members of the bar, as to whether or not an applicant's representations can be relied upon. An applicant's disciplinary record, if any, should be considered. Hence, an applicant should

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waive any privilege of confidentiality, so that the appropriate disciplinary body may make available to the evaluator the record of disciplinary sanctions imposed and the existence of serious pending grievances. The reputation of the applicant for truthfulness and fair dealing in extra-legal contexts should also be considered. Inquiry into an applicant's prejudices that tend to disable or demean others is relevant. However, since no human being is completely free of bias, the important consideration is that of whether or not the applicant can recognize his or her own biases and set them aside.

2. Legal Knowledge and Ability. An applicant should possess a high degree of knowledge of established legal principles and procedures and have a high degree of ability to interpret and apply them to specific factual situations.

Legal knowledge may be defined as familiarity with established legal principles and evidentiary and procedural rules. Legal ability is the intellectual capacity to interpret and apply established legal principles to specific factual situations and to communicate, both orally and in writing, the reasoning leading to the legal conclusion. Legal ability also connotes ~~also~~ certain kinds of behavior by the judge, such as the ability to reach concise decisions rapidly once ~~he or she is~~ apprised of sufficient facts, the ability to respond to issues in a reasonably unequivocal manner and to quickly grasp the essence of questions presented.

Legal knowledge and ability are not static qualities, but are acquired and enhanced by experience and the continual learning process involved in keeping abreast of changing concepts through education and study. More important is the demonstration of an attitude reflective of a willingness to learn the new skills and knowledge which will from time to time become essential to a judge's performance and ~~of~~ a willingness to improve judicial procedure and administration.

A review of an applicant's academic distinctions and professional colleagues who have had first-hand dealings with the applicant will be helpful in evaluating knowledge and ability.

3. Professional Experience. Professional experience should be long enough to provide a basis for the evaluation of the applicant's demonstrated performance and long enough to ensure that the applicant has had substantial experience that would allow them to successfully analyze legal problems and the judicial process.

The extent and variety of an applicant's experience should be considered in light of the nature of the judicial vacancy that is being filled. A successful applicant will have a broad range of professional and life experiences that will add depth to the judicial office they hold.

4. Judicial Temperament. An applicant should possess a judicial temperament, which includes common sense, compassion, decisiveness, firmness, humility, open-mindedness, patience, tact and understanding.

Judicial temperament is universally regarded as a valid and important criterion in the evaluation of an applicant. There are several indicia of judicial temperament which, while premised upon subjective judgment, are sufficiently understood by lawyers and non-lawyers alike to afford workable guidelines for the evaluator.

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~~Among the qualities which comprise judicial temperament are patience, open-mindedness, courtesy, tact, firmness, understanding, compassion and humility.~~ Because the judicial function is essentially one of facilitating conflict resolution, judicial temperament requires an ability to deal with counsel, jurors, witnesses, and parties calmly and courteously, and the willingness to hear and consider the views of all sides. It requires the ability to be even-tempered, yet firm; open-minded, yet willing and able to reach a decision; confident, yet not egocentric. Because of the range of topics and issues with which a judge may be required to deal, judicial temperament requires a willingness and ability to assimilate data outside the judge's own experience. It requires, moreover, an even disposition, buttressed by a keen sense of justice which creates an intellectual serenity in the approach to complex decisions, and forbearance under provocation. Judicial temperament also implies a mature sense of proportion; reverence for the law, but appreciation that the role of law is not static and unchanging; and understanding of the judge's important role in the judicial process, yet recognition that the administration of justice and the rights of the parties transcend the judge's personal desires. Judicial temperament ~~is typified by recognition that there must be~~ requires compassion as the judge deals with matters ~~put before~~ presented to him or her.

Factors which indicate a lack of judicial temperament are also identifiable and understandable. Judicial temperament thus implies an absence of arrogance, impatience, pomposity, loquacity, irascibility, arbitrariness, ~~or and~~ tyranny. The absence of judicial temperament ~~is a quality which is not easily identifiable, but which does not wholly evade discovery. Its absence~~ can usually be fairly ascertained.

Wide-ranging interviews should be undertaken to provide insight into the temperament of a judicial applicant.

5. Diligence. An applicant should be diligent and punctual.

Diligence is defined as a constant and earnest effort to accomplish that which has been undertaken. ~~While diligence although it~~ is not necessarily the same as industriousness, ~~it does imply~~ Diligence implies the elements of constancy, attentiveness, perseverance, and assiduousness, in addition to. ~~It does imply~~ the possession of good work habits and the ability to set priorities in relation to the importance of the tasks to be accomplished.

Punctuality should be recognized as a complement of diligence. An applicant should be known to meet procedural deadlines in trial work and to keep appointments and commitments. An applicant should be known to respect the time of other lawyers, clients, and judges.

6. Health. A candidate should be in good health.

Good health embraces a condition of being sound in body and mind relative to the extraordinary decision-making power vested in judges. Physical disabilities and diseases which do not prevent a person from fully performing judicial duties will not be a cause for rejection of a candidate. However, any serious condition which would affect the candidate's ability to perform the duties of a judge may be further investigated by the evaluator. The evaluator may require a candidate to provide a physician's written report of a recent thorough medical examination addressing the condition of concern.

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Good health includes the absence of erratic or bizarre behavior which would significantly affect the candidate's functioning as a fair and impartial judge. Addiction to alcohol or other drugs is of such an insidious nature that the evaluator should affirmatively determine that a candidate does not presently suffer from any such disability.

The ability to handle stress effectively is a component of good mental health. A candidate should have ~~developed~~ the ability to refresh himself or herself occasionally with non-work-related activities and recreations. A candidate should have a positive ~~perception of his or her own~~ self-worth, in order to be able to withstand the psychological pressures inherent in the task of judging.

The evaluator should give consideration to the age of a candidate as it bears upon health and upon the number of years of service that the candidate may be able to perform.

7. Financial Responsibility. An applicant should be financially responsible.

The demonstrated financial responsibility of an applicant is one of the factors to be considered in predicting the applicant's ability to serve properly. Whether there have been any unsatisfied judgments or bankruptcy proceedings against an applicant and whether the applicant has promptly and properly filed all required tax returns are pertinent to financial responsibility. Financial responsibility demonstrates self-discipline and the ability to withstand pressures that might compromise independence and impartiality.

8. Public Service. Consideration should be given to an applicant's previous public service activities.

The rich diversity of backgrounds of ~~American~~ judges is one of the strengths of the American ~~j~~udiciary, experience which provides an awareness of ~~the~~ and a sensitivity to ~~the~~ people and their problems may be just as helpful in ~~the~~ decision-making process as a knowledge of the law. There is, then, no one career path to the judiciary. A broad, non-legal academic background, supported by varied and extensive non-academic achievements are important parts of an applicant's qualifications. Examples of such non-legal experience are involvement in community affairs and participation in political activities, including election to public office. The most desirable applicant will have had broad life experiences.

There should be no issue-oriented litmus test for selection of an applicant. No applicant should be precluded from consideration because of his or her opinions or activities in regard to controversial public issues. No applicant should be excluded from consideration because of race, creed, sex or marital status.

While interviews of applicants may touch on a wide range of subjects in order to test an applicant's breadth of interests and thoughtfulness, ~~the~~ applicants should not be required to indicate how ~~they or she~~ would decide particular issues that may arise on litigated cases. However, an applicant's judicial philosophy and ideas concerning the role of the judicial system in our scheme of government are relevant subjects of inquiry.

(ii) Other Considerations for Qualification

In addition to the ABA guidelines, the commissioners may wish to consider the following in analyzing the qualifications of an applicant for judicial office:-

Impartiality. A judge must be able to determine the law (and ~~some~~ often times the facts) of a dispute objectively and impartially. Applicants should be challenged on their ability to make the transition from advocate to arbiter, on their ability to hear and consider all sides of an issue, and on their ability to put aside prejudice and bias.

Industry. Applicants must demonstrate a willingness to dedicate themselves to diligent, efficient, and thorough work. Work habits differ; work techniques vary; but rising court caseloads demand industry of judges. This means the ability to manage time efficiently, to persevere against obstacles, to prepare thoroughly and punctually, and to resolve issues concisely and decisively.

Age. ~~A justice of the Supreme Court must be at least 30 years old. A justice court judge of any other court~~ must be at least 25 years old. In addition, justice court judges may only serve until they turn 75 years old. Otherwise, there are no restrictions on the age of nominees to judicial office. Applicants should not be judged by their age alone. But they may be judged by the qualifications that may wax or wane with age: maturity, stability, legal skills, health, and vitality.

The Unique Role of Justice Court Judges. Justice court judges are in contact with the public more than any other judge. Justice courts are established by counties and municipalities and have the authority to hear class B and C misdemeanors, violations of ordinances, small claims, and infractions committed within their territorial jurisdiction. Justice court judges serve the citizens of the city or county who appoint them and are often the first or only interaction many citizens will have with the court.

Diversity on the Bench. When deciding among applicants whose qualifications appear in all other respects to be equal, it is relevant to consider the background and experience of the applicants in relation to the current composition of the bench for which the appointment is being made. The idea is to promote a judiciary of sufficient diversity that it can most effectively serve the needs of the community.

(9) The Interview

(a) Scheduling Interviews

After the candidates are selected for interview, the commission develops an interview schedule and should prepare questions for the interviews. This may be done at the same meeting in which the candidates for interview are selected or at an intervening meeting before the interviews begin.

Depending on the number of candidates, interviews ~~sh~~ could be completed in one day or on successive days. The number of intervening days between interviews should be kept to a minimum. It may be necessary for the commission to conduct some interviews in the evening. The interviews should be scheduled to include about ten minutes between interviews to review the qualifications of the candidate, if desired. Interviews should last about 20 to 30 minutes per candidate. This means that at least one-half hour per candidate should be scheduled.

Each interview is conducted in a similar fashion. The chair briefly introduces the candidate to the commissioners. The candidate is given several minutes to make an opening statement, if desired, which should include a statement of reasons for seeking the office. The commissioners then conduct the questioning. At the end of the questioning the candidate is given several minutes to make a closing statement.

Candidates are selected for time slots by the staff on a random basis. This avoids any accusation that a particular candidate was given a favored time slot.

Once set, the interview schedule is firmly fixed. Changes in the interview schedule lead only to scheduling difficulties and confusion. Rarely will any interview schedule satisfy all of the candidates, so the initial random schedule should not be changed except in extreme circumstances. The Administrative Office of the Courts is responsible for notifying the candidates of the date, time, location, and format of the interview.

(b) Preparation for Interviews

Interviews are more productive if the commissioners are well-prepared. Prepare the questions beforehand. Some questions are asked of all candidates for all judgeships. Some questions might be asked only for a particular candidate or vacancy. The investigation of candidates likely will lead to questions designed for a particular candidate.

Determine the order of questions beforehand. Every commissioner should have the opportunity to ask questions. Generally, the questioning should rotate through commissioners. The chair should ask questions last.

Determining the questions and their order does not mean that the commissioners are prohibited from following up an answer with a more particularized question. The format of the interviews should be flexible enough to pursue an unanticipated line of questioning. Preparing the questions and their order beforehand helps in returning the interview to its original course.

(c) Suggested Questions

Candidates must be treated fairly, but commissioners are encouraged to conduct aggressive questioning of the potential judges. Judges must frequently face the stress of decisions affecting the lives and property of other people. The commissioners have the responsibility to assess the ability of the candidate to resolve close questions under stress.

Phrasing of the questions is important. The commissioners may closely question the candidates concerning social issues, but the questions should be phrased to avoid opinion shopping or reducing the interview to a political interrogation. The questions should be phrased to elicit an applicant's knowledge and understanding of important issues.

Commissioners also should not hesitate to inquire about a candidate's qualifications for a position on the bench, including the applicant's health.

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Each commission is responsible for developing its own set of questions suitable to the particular court and candidate. A few examples of possible questions follow. ~~Not all questions may be applicable to every level of court.~~

Candidate's Skills, Experience, and Personal Traits

- How would you deal with an attorney who is:
 - unprepared?
 - argumentative?
 - late?
- What would be your most important contribution to the court?
- What do you anticipate will be your frustrations on the bench?
- What aspects of the judicial profession do you anticipate will be boring?
- What are your most important interests outside of your present work?
- Will you have to forgo any of these interests to keep up with the court's caseload?

Candidate's General Judicial Philosophy

- Why do you want to be a judge?
- What characteristics and qualities do you think are important for a judge to possess?
- Do you have a particular philosophy of law?
- What is your view of the role of the Judiciary in society?
- To what extent should a judge consider political, social, and economic consequences in decisions?

Candidate's View of the Court System

- What do you see as the strengths and weaknesses of Utah's criminal justice system?

(10) Selection of Nominees

(a) Order of Debate and Voting

After the interviews are completed, the commissioners should devote sufficient time to discuss the qualifications of the candidates. This deliberation may help the commission to form a consensus and facilitate the selection of nominees. Every commissioner should have the opportunity to participate in the debate. Generally, the debate should rotate through commissioners. The chair should participate in the debate last. The commission may conduct its debate, or further debate, before every round of voting.

Voting for the selection of nominees must be conducted by confidential ballot, but otherwise is the same as voting during the screening process. Any candidate receiving a majority of votes of voting commissioners present is selected as a nominee. The commission should thoroughly debate the qualifications of candidates prior to voting. The commission can reconsider its action on any candidate upon a majority vote to do so.

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The nominating commission must submit at least 3 ~~and no more than 5~~ names to the appointing authority. See U.C.A. §78A-7-202(2)(~~df~~). If, after full deliberation, the commission is unable to agree upon the number of nominees permitted or required, the commission should further debate the qualifications of the candidates and conduct additional rounds of voting until commissioners agree upon the permitted or required number of nominees.

A nominating commission may not decline to nominate a candidate merely because that commission or another declined to nominate the candidate to a previous vacancy; or because that commission or another nominated the candidate to a previous vacancy and the local hiring executive selected someone else.

The total vote tally, but not the vote of individual commissioners, is recorded in the minutes. After the vote tallies are verified and recorded, the ballots are destroyed.

(b) Public Comment Regarding Nominees; Removal of Nominee

Candidates are notified individually of their nomination. Candidates interviewed but not selected as nominees are notified of that fact ~~by letter in writing~~ from the staff of the commission. The names of the nominees are made public by the commission. The public release of the names of the nominees includes a statement that persons having comments to make regarding the nominees should provide a written statement addressed to the commission ~~chair~~ through the Administrative Office of the Courts. Statements must be received by the Administrative Office of the Courts within 10 days of the public release of names. A copy of the public release is sent to the local government executive.

The commission may meet to review any public comments not sooner than ten days after the public release of the names of the nominees. The commission ~~shall will~~ provide a nominee with a copy of any written negative comment received and ~~shall will~~ provide a nominee the opportunity to respond ~~in person or in writing~~. The commission may conduct further interviews of any nominee. The commission may request further investigation of any nominee.

After consideration of any comments and the response of the nominee, the commission may remove a candidate from the list of nominees upon the vote of four members of the commission. The commission ~~shall will~~ select another nominee from among interviewed candidates in the manner described in paragraph 10(a) of this section for voting upon nominees. The nomination process is not final until the commission submits the nominees to the city/county executive.

(c) Submitting Nominees

Nominees are submitted to the local government executive by letter from the ~~chair of the nominating~~ commission. A copy of the letter is sent to each commission member. The letter should encourage the local government executive to conduct further review of the nominees and to encourage public comments which could provide valuable insight to ensure that the best nominee is appointed. The application package, including investigation reports, reference letters, and public comments, of each nominee is forwarded to the local government executive.

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Nominees are listed in alphabetical order without any indication of rank or preference and without any indication of the vote of the commission. Because the authority of the nominating commission ends with the nomination of candidates, it is important that there be no effort to influence or persuade the local government executive in the appointment. Minority reports and expressions of personal feelings regarding nominees are inappropriate. The appointment authority belongs to the local government, not to the commission. The local government executive has the means to conduct an independent investigation of the nominees and will select the nominee best qualified for the position. While commission members should not contact the local government executive, they should feel free to respond to inquiries initiated by the local government executive's office regarding the nominees.

If a nominee withdraws before the local government executive has made an appointment, the commission may, at the request of the local government executive, nominate a replacement. Unless time permits, the Commission does not need to publish the nominee's name for public comment.

(d) Nominee Selection and Certification

The appointment of a new judge is a three step process:

- Selection
- Confirmation
- Certification

After the local government executive has made a selection, the local legislative body is required to confirm the appointment. Once confirmed, a press release is issued naming the judicial appointee. This public notice provides the name of the appointee in addition to a brief summary of the appointee's education and work history.

The appointee is then required to successfully complete the Justice Court New Judge Orientation program provided by the Administrative Office of the Courts. ~~This is a one week training program conducted in Salt Lake City.~~ Upon completion of the orientation process, the Justice Court Administrator makes a recommendation to the Utah Judicial Council respecting certification. Certification is based on ~~attendance—successful completion~~ of all parts of the orientation and on achieving a passing score on the exam administered ~~at the end of in connection with~~ the orientation. The Council issues final certification of the appointment.

TAB 7

CJA 3-402. Human resources administration

HR Policies:

- **HR 11-1. Disciplinary Action**
- **HR 17-9, 3-5, 17-1. Grievance Procedures**
- **HR 17-5, 17-8. Mediation**
- **HR 7-3. Annual Leave Accrual**
- **HR 8-3. Exercise Release**

Notes: See attached memo

Memorandum

Date: February 28, 2025

From: Bart Olsen, Director of HR, Administrative Office of the Courts
Jeremy Marsh, Deputy Director of HR,
Administrative Office of the Courts
[Human Resources Policy Review Committee](#)

To: Keisa Williams, General Counsel, Administrative Office of the Courts
Policy, Planning & Technology Committee

Re: Summary of Draft HR Policy Amendments

This memorandum summarizes the context, rationale, and intended impacts of proposed amendments to HR Policy.

BACKGROUND

Consistent with [Rule 3-402\(5\)](#), the Human Resources Policy Review Committee (HRPRC) meets regularly to review suggested policy amendments. The HRPRC assists the Policy, Planning & Technology Committee and the Judicial Council to keep HR policies relevant and effective.

1. HR11-1 Disciplinary Action

These proposed amendments intend to help facilitate consistency between HR10 (Employee Development) and HR11 (Discipline). The header to HR10 encourages managers to use similar employee development procedures for at-will employees as those that are required for career service employees. In contrast, HR11 mentions nothing about whether or not managers are encouraged to follow procedures similar to due process for at-will employees prior to taking disciplinary action. While due process procedures should not be rigidly required for at-will employees prior to discipline, due process procedures certainly tend to result in better employee morale.

HR Policy: [HR11-1](#)

2. HR17-9, HR03-5, HR17-1, & Judicial Code 3-402(6) Grievance Provisions

HR17-9 Grievance Review Panel Membership:

Actions grievable to the Grievance Review Panel (GRP) almost always originate from an employee whose line of management points to one of the currently established GRP members (Administrators of the Appellate, District, and Juvenile Court Levels and the Assistant State Court

Administrator). The best practice is to exclude the person in the original decision-making line of authority as a voting member of the panel reviewing the grievance. The remaining panel members are already required by policy to consider the perspectives of managers who made the original decision to take the action being grieved.

Additionally, a best practice would be to ensure the panel consists of an odd number to avoid a tied decision on a grievance. For the sake of transparency and employee trust in the process, we recommended these practices be formally adopted in policy with the amendments proposed.

HR03-5 Position Classification Grievances

Prior to the major HR policy manual overhaul in July 2021, job classification decisions were not eligible to be grieved to the level of the Grievance Review Panel - a body that has little knowledge of or expertise in job classification.

This amendment would restore the procedure in place prior to July 2021, that a job classification decision made by a member of the HR Department could be grieved to the HR Director, and a final decision could be made by the State Court Administrator if necessary.

HR17-1 Eligibility and Procedural Requirements

Proposed amendments would clear up confusion about the process for reviewing allegations of retaliation. All employees are subject to the provisions of HR15-2 prohibiting retaliation and all employees may use the complaint procedures outlined in HR15-3. The amendments also eliminate unnecessary repetition of language provided in UCJA Rule 3-402(6) and instead point directly to that rule.

Judicial Code 3-402(6)

Provision (6) of the rule currently appears to protect much more than is generally seen in government career service protections. Most career service systems provide grievance procedures for adverse actions taken against career service employees, but the rule currently allows for grievances on any kind of personnel action.

This would include, for example, the action of setting an employee's work schedule as Monday-Friday 8 am to 5 pm; the action of issuing work performance expectations; or the action of asking a more seasoned employee to train a newer employee on a job task.

The Grievance Review Panel (GRP) has not yet received grievances on more trivial matters such as these, but the HR Department has received a couple of questions from

employees about grieving such things. No formal grievance like this has yet materialized, but the questions did draw attention to a potential problem that can be easily resolved before it becomes an actual problem. The proposed rule amendments would clarify that the Grievance Review Panel has authority to review adverse actions taken against career service employees and defines what constitutes an adverse action.

HR Policy: [HR17-9](#), [HR03-5](#), [HR17-1](#), & [Judicial Code 3-402\(6\)](#)

3. HR17-5 & HR17-8 Mediation

In the past five years, 20 formal grievances have been filed with the HR Department, and 3 of them requested mediation. Despite the low number, all three mediations were quite costly in terms of time, financial cost, or both. Additionally, none of the mediated cases led to a single change in case outcomes.

HR Policy: [HR17-5](#), [HR17-8](#)

4. HR07-3 7 Hour Annual Leave Accrual

The practice of granting the maximum amount of annual leave (seven hours per pay period) for new hires in the IT Department began in January 2019 under the previous State Court Administrator, HR Director, and IT Director. The argument at the time was that IT needed a standing exception for job offers in order to be competitive in the job market and reduce turnover. The practice was adopted without approval from the State Court Administrator and prior to the practice of bringing HR policies to a review committee. It then extended to the Research & Development Department when that department was separated from the IT Department.

However, current policy allows for exceptions as needed, and when the State Court Administrator learned the IT/R&D Departments had a blanket exception for all new hires, he expressed concern and requested that the HRPRC consider a policy amendment discontinuing that practice.

HR Policy: [HR07-3](#)

5. HR08-3 Exercise Release

The State Court Administrator expressed support for expanding Exercise Release Time into Wellness Release Time, allowing for activities that promote mental health as well as physical health. For this reason, the HRPRC recommends amendments to HR008-3 to reflect this support.

Some examples of wellness activities that might not currently be approved under Exercise Release but would more likely be approved under Wellness Release include meditation, yoga, quiet reading, listening to calming music with headphones, etc.

HR Policy: [HR08-3](#)

Section 11 - Discipline

HR11-1 Disciplinary Action.

1. Management may discipline any employee for any of the following causes or reasons:
 - a. Non-compliance with these policies or other local/applicable policies, including but not limited to the laws of the State of Utah or the United States (other than minor traffic offenses), safety policies and procedures, professional standards, ethical violations, etc.;
 - b. Work performance that is inefficient or incompetent;
 - c. Failure to maintain skills and adequate performance levels;
 - d. Insubordination or disloyalty to the orders of a supervisor or member of management;
 - e. Misfeasance, malfeasance, or nonfeasance;
 - f. Any incident involving intimidation, physical harm, or threats of physical harm against co-workers, management, or the public;
 - g. No longer meeting the requirements of the position;
 - h. Conduct, on or off duty, which creates a conflict of interest with the employee's public responsibilities or impacts the employee's ability to perform job assignments;
 - i. Failure to advance the mission of the judicial branch or the good of public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the judicial branch to fulfill its mission;
 - j. Dishonesty; or
 - k. Misconduct, which may include but is not limited to:
 - i. Violation of the Employee Code of Ethics and Conduct as described in [HR09](#)

- ii. Violation of the rules of procedure or the Code of Judicial Administration
- iii. Conduct which endangers the peace and safety of others or poses a threat to the public interest
- iv. Unjustified interference with the work of other court employees
- v. Unauthorized absence
- vi. Falsification or unauthorized alteration of records;
- vii. Violation of court policies
- viii. Falsification of employment application
- ix. Unlawful discrimination in hiring, assignment, or promotion
- x. Workplace Harassment in accordance with [HR15](#)
- xi. Derisive or demeaning behavior
- xii. Use of alcohol or drugs (other than medication as prescribed by a health care provider) that negatively affect job performance.

2. Management shall consult with HR before disciplining an employee.

3. All disciplinary actions of career service employees shall be governed by principles of due process. Management is strongly encouraged to follow similar procedures for at-will employees in consultation with the HR Department. The disciplinary process for career service employees shall include all of the following, except as provided in [HR11-1\(5\)](#):

- a. The employee is notified in writing of the proposed discipline, the reasons supporting the intended action, and the right to reply to management or to the HR department within five working days.
- b. The employee's reply shall be received by management or by HR within five working days in order for management to consider the reply before discipline is imposed.
- c. If an employee waives the right to reply or does not reply within the time frame established by management or within five working days, whichever is longer, discipline may be imposed in accordance with these policies.

4. After a career service employee has been informed of the reasons for the proposed discipline and has been given

an opportunity to respond and be responded to, management may discipline that employee, or any at-will employee not subject to the same procedural rights, by imposing one or more of the following forms of disciplinary action:

- a. Letter of Reprimand;
- b. Suspension without pay up to 30 calendar days per incident requiring discipline;
- c. Demotion as defined by [HR01\(31\)](#), reducing the employee's current actual wage, as determined by the court level administrator in consultation with the HR Director;
- d. Dismissal in accordance with [HR11-2](#).

5. If management determines that an employee endangers or threatens the peace and safety of others or poses a grave threat to the public service or is charged with aggravated or repeated misconduct, management may impose the following actions pending an investigation and determination of facts:

- a. Paid administrative leave; or
- b. Temporary reassignment to another position or work location at the same current actual wage.

6. When disciplinary action is imposed, the employee shall be notified in writing of the discipline, the reasons for the discipline, the effective date, and the length (if applicable) of the discipline.

7. Imposed disciplinary actions are subject to grievance and appeals procedure for career service employees, as outlined in [HR17](#). The employee and management may agree in writing to waive or extend any grievance step, or the time limits specified for any grievance step.

HR03-5. Position Classification Grievances.

1. ~~Under UCJA 3-402(6), an An~~ employee may grieve formal position classification decisions regarding the classification of a position made by a member of the Human Resources Department to the grievance review panel ~~Director of Human Resources, regardless of the employee's career service status.~~

- 133 a. This policy refers to grievances concerning the
134 assignment of individual positions to appropriate jobs
135 based on duties and responsibilities. The assignment of
136 salary ranges is not included in this policy.
- 137 b. An employee may only grieve a formal classification
138 decision regarding the employee's own position.
- 139 c. An aggrieved employee must submit a position
140 classification grievance in writing to the Director of
141 Human Resources no later than fifteen business days from
142 the date the employee received a written position
143 classification decision.
- 144 d. The Director of Human Resources shall issue a written
145 review of the position classification decision being
146 grieved no later than 30 calendar days from the date the
147 grievance is submitted in writing.
- 148 i. The Director's written review shall include reasoning
149 to uphold or overturn the position classification
150 decision being grieved; or shall direct a member of
151 the Human Resources Department to conduct a new
152 position classification review.
- 153 ii. The Director's written review shall be sent directly
154 to the employee grieving the classification decision
155 and any other member of the Human Resources Department
156 as applicable.
- 157 2. If an employee is dissatisfied with the Director's
158 written review, the employee may request a final review
159 from the State Court Administrator.
- 160 a. The employee must submit a written request for final
161 review to the State Court Administrator within fifteen
162 business days from the date the employee received the
163 Director's written review.
- 164 b. The State Court Administrator or designee shall
165 issue a final decision to uphold or overturn the position
166 classification decision in writing no later than 60
167 calendar days from the date the employee submits the
168 written request for final review.
- 169
- 170
- 171 1. ~~Formal service for classification grievance~~
172 ~~communication to employees shall be made by:~~
- 173 ~~a. certified mail to the employee's address of record,~~
174 ~~and~~
175 ~~b. email to the employee's state email account.~~

176 **HR17-1. Eligibility and Procedural Requirements.**
177
178

179 1. Only judicial branch career service employees ~~or any~~
180 ~~employee reporting or alleging retaliatory action as~~
181 ~~defined by HR15-2~~ may use these grievance procedures.
182 ~~a. Pursuant to HR11-2(1), the Grievance Review Panel has~~
183 ~~no authority to review grievances filed by at-will~~
184 ~~employees.~~
185 ~~b.~~ Employees may only grieve matters identified under
186 UCJA Rule 3-402(6) to the Grievance Review Panel, ~~which~~
187 ~~includes:~~
188 ~~i. a dismissal;~~
189 ~~i. a demotion;~~
190 ~~i. a suspension;~~
191 ~~i. a reduction in force;~~
192 ~~i. a dispute concerning abandonment of position;~~
193 ~~i. a wage grievance if an employee is not placed within~~
194 ~~the salary range of the employee's current~~
195 ~~position;~~
196 ~~i. a position classification decision;~~
197 ~~i. equitable administration of insurance, retirement,~~
198 ~~or leave benefits;~~
199 ~~i. violations of human resources policies by management~~
200 ~~regarding matters outlined in HR17-1(a). employee~~
201 ~~promotions, dismissals, demotions, wages, salary,~~
202 ~~violations of human resources policies, benefits,~~
203 ~~reductions in force and disciplinary actions..~~
204 a. All other matters may be grieved up to Level 3, as
205 identified in HR17-5.

206
207
208
209 1. ~~At-will employees may only access the grievance~~
210 ~~procedures if reporting or alleging retaliatory actions as~~
211 ~~defined by HR15-2.~~

212
213 2. Where a question or dispute exists regarding whether
214 an employee qualifies to use these grievance procedures,
215 such controversies must be resolved through an application
216 to the HR Director. In consultation with the Office of
217 General Counsel, the HR Director shall make the final
218 decision on employee eligibility to use these procedures.
219

220
221 3. Class action grievances are not admissible for
222 consideration by the Grievance Review Panel under these
223 grievance procedures.
224
225

226 4. A group grievance is admissible, provided that each
227 aggrieved employee signs the grievance.
228

229
230 5. An aggrieved employee shall submit a grievance in
231 writing to the party identified in [HR17-5](#) and shall include
232 the problem or complaint, a description of the direct harm,
233 and the requested remedy or relief.
234

235
236 6. The employee shall include all relevant evidence and
237 affidavits, to the best of the employee's knowledge, to
238 allow management at the applicable grievance levels to make
239 an informed decision. This information should include but
240 is not limited to:

- 241 a. Admitted and disputed allegations;
- 242 b. Any witnesses;
- 243 c. Documented evidence, exhibits, etc.
244

245
246 7. Intentional withholding of relevant information may be
247 grounds for dismissal of the grievance.
248

249 **Rule 3-402. Human resources administration.**

250 *See attached rule draft
251

252 **HR17-5. Grievance Levels and Timelines.**

253
254

255 1. For purposes of this chapter, the counting of business
256 days for timelines shall begin on the first day following
257 receipt of the applicable grievance, complaint, or response
258 that is not a Saturday, Sunday, or a holiday under [HR07-2](#).
259

260 2. An employee wishing to advance a formal grievance
261 shall do so within ten (10) days after the event giving
262 rise to the grievance or within ten (10) days after the
263 employee knows, or with exercise or reasonable diligence
264 should have known, of the event giving rise to the
265 grievance.
266

267 3. If an employee is dissatisfied with a response at any
268 of the grievance levels outlined below, the employee may
269 advance the grievance to the next level within ten (10)
270 business days.
271

4. Grievances alleging retaliatory action and requests to review the findings of an abusive conduct investigation are not subject to levels 1-3 outlined below and may be filed directly to the Grievance Review Panel or the Judicial Council.

5. At each level, the employee shall provide the HR Department a copy of all grievance documents advanced to management. The employee shall advance the grievance in accordance with the following levels of increasing accountability:

Level 1

- a. A written grievance shall be submitted to the employee's immediate supervisor.
- b. Once submitted, the written grievance is a formal complaint requiring a response.
- ~~c. If desired, the employee may also request mediation in accordance with HR17-8 in conjunction with Level 1.~~
- c. If a supervisor is the subject of a grievance or complaint, the employee may proceed directly to Level 2.

Level 2

- d. If the grievance is not resolved at Level 1 within five (5) business days, an employee may ~~request mediation in accordance with HR17-8 or~~ advance a grievance to the direct supervisor's manager.
- e. If that manager is the subject of a grievance or complaint, the employee may proceed directly to Level 3.

Level 3

- f. If a grievance is not resolved at Level 2 within ten (10) business days, the employee may ~~request mediation in accordance with HR17-8 or~~ advance the grievance to the Court Executive or Court Level Administrator at Level 3.
- g. If that manager is the subject of a grievance or complaint, the employee may proceed directly to Level 4.

Level 4

- h. If a grievance is not resolved at Level 3 within fifteen (15) business days, the employee may ~~request mediation in accordance with HR17-8 or~~ advance the grievance to the Grievance Review Panel at Level 4, by submitting the request for Level 4 review to the HR Director or the HR Manager designee.

318
319
320 6. The purpose in specifying these four levels is to
321 curtail employees from having to submit their grievances to
322 persons not specified in the above steps or levels. Only
323 the above-listed persons (or their designated
324 representatives) in management are authorized to respond to
325 a career service employee's grievance.
326

327
328 ~~HR17-8. Mediation.~~
329

330 ~~1. An employee may choose to request mediation in place of a~~
331 ~~formal management response at any level of the formal~~
332 ~~grievance process.~~
333

334 ~~2. If mediation is requested, management and/or HR will~~
335 ~~attempt to arrange for a neutral party mediator that is~~
336 ~~mutually acceptable to both the aggrieved employee(s) and~~
337 ~~management.~~
338

339 ~~3. Timeframes to give notice of a scheduled mediation meeting~~
340 ~~shall be equal to the timeframe given at each grievance~~
341 ~~level allowing management to resolve the grievance.~~
342

343 ~~4. If the aggrieved employee is not satisfied with the~~
344 ~~proposed mediator, the outcome of mediation or does not~~
345 ~~receive timely scheduling of a mediation meeting, the~~
346 ~~employee may advance the grievance to the next level~~
347 ~~identified in HR17-5.~~
348

349 **HR07-3. Annual Leave.**
350

351 1. An eligible employee shall accrue leave based on the
352 following years of benefit(s)-eligible state service:
353 a. Less than 5 years: four hours per pay period;
354 b. At least 5 and less than 10 years: five hours per pay
355 period;
356 c. At least 10 and less than 20 years: six hours per pay
357 period;
358 d. 20 years or more: seven hours per pay period.
359

360
361 2. The maximum annual leave accrual rate shall be granted
362 to an employee, effective from the day the employee is

363 appointed through the duration of the appointment under the
364 following conditions:

- 365 a. An employee in a court executive, court level
- 366 administrator, or director level position; or
- 367 b. An employee who is FLSA exempt and who has a direct
- 368 reporting relationship to the deputy state court
- 369 administrator or state court administrator.
- 370 ~~e. The employee is a newly hired, FLSA exempt, and at-will~~
- 371 ~~employee of the IT or Judicial Data and Research~~
- 372 ~~departments and has been granted maximum annual leave~~
- 373 ~~accrual by the IT or Judicial Data and Research~~
- 374 ~~director.~~

375

376

377 3. The accrual rate for an employee rehired to a position

378 that receives leave benefits shall be based on all eligible

379 employment in which the employee accrued leave.

380

381

382 4. For purposes of compliance with UCA §63G-1-301(1)(d),

383 the first eight hours of annual leave used by an employee

384 in the calendar leave year for any reason are considered to

385 be the employee's "personal preference day".

386

387

388 5. Management shall allow every employee the option to

389 use annual leave each calendar year for at least the amount

390 accrued in the year.

391

392

393 6. Unused accrued annual leave in excess of 320 hours

394 shall be forfeited during year end payroll processing for

395 each calendar year and added to the judicial branch's

396 general leave bank.

397

398

399 7. Upon termination of employment, all unused annual

400 leave hours shall be paid in a lump sum on the employee's

401 final paycheck.

402

403

404 8. Upon retirement, unused annual leave may either be

405 paid in a lump sum on the employee's final paycheck, or the

406 employee may elect to convert unused annual leave into a

407 401(k) or 457 account supported by URS and consistent with

408 UCA §63A-17-504

409

410
411 **HR17-9. Grievance Review Panel.**
412

413 **Panel Membership**
414
415

416 1. A grievance review panel is established consistent
417 with UCJA 3-402(6).

418 a. The panel membership includes Court Level
419 Administrators of Juvenile, District, and Appellate
420 Courts, ~~and~~ the Assistant Court Administrator, and may
421 include an AOC Director as needed.

422 b. The number of panelists reviewing a grievance shall be
423 an odd number of at least three but no more than five
424 members.

425 c. The number of panel members and their selection to
426 review a specific grievance shall be determined by the HR
427 Director or designee, who may consult with the State
428 Court Administrator, Deputy State Court Administrator, or
429 General Counsel to finalize the composition of the
430 panel.

431 ~~a.~~

432 2. In consultation with the State Court Administrator or
433 General Counsel, if a member of the panel is unable or
434 unavailable to participate in a grievance review, or is the
435 subject of the grievance brought to the panel, or holds a
436 potential conflict of interest by participating in the
437 grievance review, a designee may be appointed by the HR
438 Director or ~~HR Manager~~ designee.
439

440 **Panel Procedures**
441

442 3. The HR Department shall notify panel membership
443 established in HR17-9(1) of the request for a Level 4
444 review within five (5) business days of receipt of the
445 request.
446

447
448 4. The grievance review panel shall have 15 business days
449 to establish a grievance review meeting date with
450 grievant.

451 a. The grievance review meeting date shall be set no
452 later than 30 calendar days after the panel receives the
453 request for a Level 4 review unless mutually agreed upon
454 by grievant and the panel.

b. A representative assistant may be appointed by the panel to coordinate and communicate logistics such as date, time, meeting location, etc.

5. Grievant shall have an opportunity to present relevant facts and/or evidence to the panel during the grievance review meeting.

6. The panel shall consider the following items in its review of the employment action being grieved:

a. The testimony of grievant, relevant evidence, witness statements, and so forth as described in [HR17-1\(5\)](#) and [HR17-1\(6\)](#).

b. Testimony, relevant evidence, witness statements and so forth provided by individuals with decision-making authority over grievant at the time the action being grieved was taken.

c. Relevant organization policies, including but not limited to the human resources policies in this manual.

7. The panel shall have 10 business days following the grievance review meeting to issue a written review of the employment action being grieved, and shall provide a copy to the HR Director, General Counsel, and State Court Administrator.

8. The panel's written review shall include the following:

a. An analysis of all information presented to the panel during the grievance review process from grievant and other relevant stakeholders such as grievant's line of management, including credibility analyses of testimony and evidence, if applicable.

b. An analysis of relevant human resources policies, including discretionary factors under [HR11-3](#) for disciplinary actions, and the degree to which the panel believes the action being grieved complies with or does not comply with those policies.

c. The recommended course of action to remedy noncompliance, if the panel believes the action being grieved does not comply with relevant human resources policies.

501
502
503 9. The State Court Administrator (SCA) or designee shall
504 have 10 business days to certify the panel's written
505 review.

506 a. If the SCA or designee agrees with the panel's written
507 review, the SCA or designee shall issue a written consent
508 and send a copy of the review and consent to grievant,
509 the grievance review panel, management, and to the HR
510 Director.

511 b. If the SCA or designee disagrees with the panel's
512 written review, the SCA or designee shall issue a written
513 dissent to the grievance review panel and to the HR
514 Director. In this event, the SCA or designee will issue a
515 final written decision to grievant with a copy to
516 management and the HR Director.

517
518 10. The certified consenting or dissenting decision of the
519 SCA or designee is considered final.
520
521

522 **HR08-3. Lunch, Break, Exercise-Wellness Release Periods.**

523 1. Management may require a minimum of 30 minutes non-
524 compensated lunch period.

525 a. Lunch periods may not be used to shorten a work
526 day.

527 b. This is not a universal requirement, but is at
528 the discretion of local management and mindful of
529 judicial branch business needs.
530

531 2. An employee may take a 15-minute, compensated break
532 period for every four hours worked.

533 a. Break periods may not be utilized to shorten a
534 work day or lengthen a lunch period.
535

536 3. Compensated ~~exercise-wellness~~ release time may be
537 allowed at management discretion as set forth below.

538 a. Wellness~~Exercise~~-release time is intended to
539 promote physical and mental health and is not intended
540 to provide extra time for other personal matters.

541 b. An employee working a typical full time schedule
542 of five days per week may be granted up to three days
543 compensated wellness~~exercise~~-time per week for 30
544 minutes.

545 c. An employee working a 4/10 work schedule, or a
546 4/9's and a 4 hour work schedule, or a part-time
547 employee working more than 20 but less than 40 hours

per week may be granted up to two days compensated ~~exercise-wellness~~ time per week for 30 minutes.

d. A part-time employee working up to 20 hours per week may be granted one day compensated ~~exercise wellness~~ time per week for 30 minutes.

e. ~~Exercise-Wellness~~ release time may be granted as follows, subject to supervisory approval, after considering individual employee circumstances and the needs of the judicial branch in maintaining operations:

i. In conjunction with a scheduled lunch hour, subject to supervisory approval;

ii. At the beginning of the workday, allowing a delayed arrival to work by up to 30 minutes;

iii. At the end of the workday, allowing early departure from work by up to 30 minutes.

f. A participating employee who has been authorized to work from home on one or more days of the week may receive supervisor approval to designate compensated ~~exercise-wellness~~ release time during work hours at home.

g. ~~WellnessExercise~~ release time is subject to the following limitations and/or expectations:

i. Supervisory pre-approval must be granted in writing, and should specify the time limits, performance standards, and any other applicable conditions upon which the release time is granted. Use of a written and negotiated agreement between employee and management is encouraged.

ii. Time is not cumulative or accrued. Unused ~~wellness exercise~~ release time shall not be carried over into a subsequent day or week.

iii. Time shall not result in accrual of excess hours.

iv. Employees participating in this program do so at their own risk and are encouraged to consult with a health care provider to ensure their own capability to participate.

v. The judicial branch is not responsible for any injury, illness, or other consequence suffered by the employee as a result of participating in this program.

vi. ~~Exercise-Wellness~~ release time used in compliance with this policy shall be recorded as regular work hours in the employee timesheet.

vii. Documentation of authorization for ~~exercise~~
wellness time may be maintained by management
and shall be maintained in the official HR
personnel file or documented in UPM.

4. As requested and after consultation with an employee,
reasonable daily break periods shall be granted for the
first year following the birth of a child to allow an
employee to express breast milk for her child.

a. A private location, other than a restroom, shall
be provided.

b. Appropriate temporary storage shall be provided
for expressed milk.

Rule 3-402. Human resources administration.**Intent:**

To establish guidelines for the administration of a human resources system for the judiciary.

Applicability:

This rule ~~shall apply~~applies to all non-judicial officer employees in the judicial branch.

Statement of the Rule:

(1) **Department of Human Resources.** A department of human resources is established within the Administrative Office to guide the human resources activities of the judiciary.

(2) **Services.** The department of human resources ~~shall will~~ provide the necessary human resources services to the judiciary in compliance with the state constitution, state statute, and this Code. The department of human resources ~~shall will~~ provide all state employees in the judicial branch information regarding benefits, compensation, retirement, and other human resources related matters.

(3) **Human resources policies.**

(3)(A) Policies generally. Human resources policies, including a Code of Ethics for non-judicial officer employees, will be adopted by the Council in accordance with the rulemaking provisions of this Code.

(3)(B) Non-judicial officer employees. The human resources policies for non-judicial officer employees:

(3)(B)(i) ~~shall will~~ include classification of career service exempt (at-will) and non-exempt jobs, designation of FLSA exempt and non-exempt jobs, guidelines governing recruitment, selection, classification, compensation, working conditions, grievances and other areas deemed necessary; and

(3)(B)(ii) ~~shall will~~ be based upon the following merit principles:

(3)(B)(i)(a) the recruitment, selection and promotion of employees based upon relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment;

(3)(B)(ii)(b) a salary schedule which provides for equitable and adequate compensation based upon current job market data gathered at least every three years including salary levels of comparable positions in both the public and private sector, local labor market information and trends, other relevant data, and available funds;

(3)(B)(iii)(c) employee retention on the basis of performance that enhances and/or advances the mission of the judiciary—where appropriate, provision will be made for correcting performance and separating employees whose performance or misconduct interferes with or fails to advance the mission of the judiciary;

(3)(B)(iv)(d) fair treatment in all aspects of human resources administration without regard to sex, gender, age, ancestry, national

origin, race, color, religious creed, mental or physical disability or medical condition, sexual orientation, gender identity or expression, marital status, military or veteran status, genetic information, or any other category protected by federal, state or applicable local law; and

(3)(B)(~~iv~~)(e) notification to employees and an explanation of their political rights and prohibited employment practices.

(4) **Human resources director – court level administrators.** ~~The state c~~Court level administrators ~~shall will~~ be responsible for the day-to-day administration of the human resources system within that court level. A director of human resources, appointed by the ~~s~~State ~~c~~Court ~~a~~Administrator, ~~shall will~~ be responsible for effective governance of the human resources department and will assist the ~~state court~~ level administrators, court executives, and other managers with human resources related matters.

(5) **Human Resources Policy Review Committee.** ~~Human resources policies, including a Code of Ethics for non-judicial officer employees, shall be adopted by the Council in accordance with the rulemaking provisions of this Code.~~

(5)(A) **Duties.** There is established a Human Resources Policy Review Committee responsible for making and reviewing proposals for human resources policy amendments. The committee ~~shall will~~ review human resource policies at least every three years.

(5)(B) **Members.** The committee ~~shall will~~ consist of the following voting members, which, where indicated, must be selected by majority vote of the entire body of the specified group:

(5)(~~BA~~)(i) the director of human resources;

(5)(~~BA~~)(ii) two trial court executives, selected by the trial court executives;

(5)(~~BA~~)(iii) three clerks of court (one juvenile, one district, and one appellate), selected by the clerks of court;

(5)(~~BA~~)(iv) a chief probation officer from the juvenile court, selected by the chief probation officers; and

(5)(~~BA~~)(v) a case manager, selected by the clerks of court.

(5)(C) **Non-voting members.** ~~Non-voting members may be assigned by the Policy, Planning, and Technology Committee (PP&T), as necessary to assist the committee. Other members of the committee will be appointed in a manner consistent with Rule 1-205.~~

(5)(~~DB~~) **Chair.** The chair of the committee ~~shall will~~ be designated by the state court administrator. ~~Other members of the committee shall be appointed in a manner consistent with Rule 1-205.~~

(5)(E) **Support.** The department of human resources ~~shall will~~ provide necessary support to the committee. ~~Other non-voting members may be assigned by the Policy and Planning Committee, as necessary to assist the committee.~~

(5)(~~FC~~) **Policy amendment process.** Pursuant to Rule 1-204, new and amended policies, or repeals, recommended by the committee ~~shall will~~ be reviewed by ~~the Policy~~

and Planning Committee PP&T prior to being submitted by the Policy and Planning Committee to the Judicial Council.

(6) **Grievance review panel.**

(6)(A) **Quasi-judicial body.** A grievance review panel is established within the grievance process outlined in the judiciary's human resources policies to sit as a quasi-judicial body and review adverse employment ~~any actions~~ taken ~~under the authority of~~ in accordance with the judiciary's human resources policies.

(6)(B) **Career service employees.** ~~and which pertains to Only career service employees may submit a grievance to the Grievance Review Panel, after following the procedures outlined in human resources policies.~~

(6)(C) **Management.** The Grievance Review Panel may not review a matter that management has not had an opportunity to address.

(6)(D) **Authority.** The Grievance Review Panel has the authority to review management decisions regarding the following adverse employment actions:

~~employee promotions;~~

(6)(D)(i) ~~dismissals;~~

(6)(D)(ii) ~~demotions;~~

(6)(D)(iii) ~~suspensions;~~

(6)(D)(iv) ~~reductions in force;~~

(6)(D)(v) disputes concerning abandonment of position;

(6)(D)(vi) wages/salary grievances if an employee is not placed within the salary range of the employee's current position; and

~~violations of human resources policies;~~ and

(6)(D)(vii) the equitable administration of insurance, retirement, or leave benefits.

(7) **Files.** An official human resources file for each employee ~~shall~~ will be maintained in the Administrative Office and ~~shall~~ will include the following records:

(7)(A) biographical information;

(7)(B) records of official human resources action;

(7)(C) standards of performance expectations;

(7)(D) corrective actions;

(7)(E) records of official disciplinary action and supporting documentation;

(7)(F) job applications; and

(7)(G) payroll and benefits information.

Effective: ~~11/1/2020~~ November 1, 2025

TAB 8

CJA 4-202.08. Fees for records, information, and services

Notes: The proposed amendments began with the attached memo that Daniel Meza Rincon and Keri Sargent presented to the Judicial Council in September 2024. The amendments were posted for public comment in November 2024. The comment period ended in January 2025 and [two comments were received](#).

The first comment was a question about the definition of “transaction.” We need clarification from Mr. Meza Rincon and Ms. Sargent on that question.

The second comment was a request from the Salt Lake District Attorney’s Office (SLDA) to waive fees for certified and exemplified copies. Lisa Ashman and Anna Rossi Anderson from the SLDA attended the meeting to discuss their concerns. Following that discussion, PP&T determined that [78A-2-301\(1\)\(ff\)](#) is limited to filing fees and the court lacks the authority to waive fees for certified and exemplified copies.

During the legislative session, SLDA ran [S.B. 148](#), which would have waived all fees listed under [78A-2-301](#) and [78A-2-301.05](#) for the state, the state’s agencies, or political subdivisions filing or defending any action. Unfortunately, that bill did not pass, so we are back where we started with the proposed amendments in the memo originally submitted to the Council defining “minimal” as \$10.00 or less per transaction.

I received a new question (unrelated to the previous amendments) regarding the Council’s authority to grant the State Court Administrator the authority to set fees for personnel time in (6)(B) and post them on the court’s website, a change approved by the Council last year. Personnel fees are posted on the court’s website [here](#). If so, can the Council do the same with Xchange fees in (7), removing them from the rule and posting them on the website along with the personnel fees?

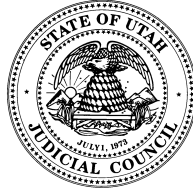
78A-2-103:

(1)(bb): “The Judicial Council **shall, by rule, establish a schedule of fees for copies of documents and forms** and for the **search and retrieval of records** under Title 63G, Chapter 2, Government Records Access and Management Act. **Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.**”

(1)(cc) The Judicial Council **may, by rule, establish a reasonable fee** to allow members of the public to conduct a **limited amount of searches on the Xchange** database without having to pay a monthly subscription fee.

Under [63G-2-203\(3\)\(d\)](#): "**The judiciary shall establish fees by rules of the judicial council.**"

There is no question that the Council has the authority to delegate this administrative, non-judicial function to the State Court Administrator should they choose to do so. In light of the reference to GRAMA in 78A-2-301, the fact that the fees go to the court, the language in 63G-2-203, and the separation of powers question regarding the applicability of GRAMA, a reasonable argument could be made that the Council is establishing a schedule of fees by rule when it grants the State Court Administrator the authority to set the rates. The Council is simply choosing to post the schedule somewhere else. However, a reasonable argument could also be made that the statute requires the Council to maintain a list of fees in rule. If PP&T agrees with the first interpretation, the Deputy State Court Administrator would like to remove the Xchange fees from (7) and post them on the website. If PP&T agrees with the latter, we need to put the rates back into (6)(B).



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

August 6, 2024

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Judicial Council

**FROM: Daniel Meza Rincón, Deputy Juvenile Court Administrator
Keri Sargent, Deputy District Court Administrator**

RE: Definition of “Minimal” in CJA Rule 4-202.08(10)(A)(i)

This memorandum is being submitted to the Judicial Council to seek approval of the recommendations from the Budget and Fiscal Management Committee to define “minimal” for purposes of UCJA 4-202.08(10)(A)(i) as anything \$10 or less, and to further amend UCJA Rule 4-202.08 so that the fee for copies of audio records shared via the FTR cloud can be reduced. The history behind this request is set forth below.

[UCJA Rule 4-202.08](#) applies to all courts of record and not of record and to the Administrative Office of the Courts (AOC). Its intent is to establish uniform fees for requests for records, information, and services. Subsection (10), “Waiver of fees” has historically been interpreted and applied differently throughout the state. On December 1, 2023, the Trial Court Executive (TCE) group tasked the Clerk of Court (CoC) group to create a proposal to define “minimal” to remedy the disparate interpretations and applications of this rule statewide. Both groups and the AOC agree that uniformity throughout the state in the application of these waivers of fees is important.

UCJA 4-202.08(10)(A) and (10)(A)(i) state:

(10)(A) Subject to (10)(B), fees established by this rule, other than fees for public online services, shall be waived for:

(10)(A)(i) any government entity of Utah or its political subdivisions if the fee is minimal;

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

In January of 2024, the CoC group agreed on the following proposed definition of “minimal” and application of the rule: any request for court records, by any government entity of Utah or its political subdivisions, totaling less than \$10 per transaction.¹

The CoC group discussed that this waiver would not apply to requests for either certified or exemplified copies of a document as these fees are not established by UCJA 4-202.08 but rather by [Utah Code 78A-2-301](#).

This proposed definition of the word “minimal” for UCJA 4-202.08(10)(A)(i) was considered and approved by the TCE group on February 2, 2024.

AOC Juvenile Court and District Court administration then collaborated with the Accounting Manual Committee to ensure this direction was memorialized in the manual. The Accounting Manual Committee proposed an update to accounting manual policy [02-10.09 Miscellaneous Payments](#). The proposed update is as follows:

Government agencies requesting copies shall have the fees waived if the fee is minimal. By policy, minimal is defined to mean fees less than \$10.00 per transaction. Certified or exemplified copy fees cannot be automatically waived as they are established by the legislature and not by court rule. This does not prohibit a state agency from filing a motion/order to waive fees.

This proposed accounting manual change, along with the proposed definition of “minimal,” was presented to the Budget and Fiscal Management Committee (Committee) for review and approval on June 10, 2024. The Committee requested more information regarding current practices in order to better assess the impact of this change. The Committee further highlighted the need to give stakeholders ample notice of any potential changes that may result from this policy change. The accounting manual change was not approved at that time.

At the request of the Committee, districts were surveyed and asked the following questions. Their responses and observations from the AOC are as follows:

1. How do you currently define "minimal" when complying with [CJA Rule 4-202.08\(10\)\(A\)\(i\)](#)

Most of the districts treat all requests from a governmental agency as minimal and thus waive the associated fees. One district reported not waiving fees for audio recordings for multi-day trials. Three districts have specific guidelines:

- Anything below \$25 per transaction or request.
- Anything below \$100 in a month per agency.
- Anything below \$50 in a month per agency.

If the definition of “minimal” is set as any request for court records totaling less than \$10 per transaction, this would impact many state agencies in some districts whose requests

¹ In deciding to recommend the \$10 amount, the CoC group observed that this dollar amount is in line with several accounting policies, such as [02-14.00 Credits](#) which allows teams to waive fine/interest on certain cases in the amount of less than \$10, without a court order, and [02-8.00 Overpayments](#), which notes that “all overpayments which are \$10 or less will be retained as revenue and distributed to the miscellaneous revenue account, unless a refund is requested by the payer.”

may be completely waived right now. This survey response also highlights the need for a more consistent approach to the application of CJA Rule 4-202.08(10)(A)(i).

2. What entities do you currently waive fees for under CJA Rule 4-202.08(10)(A)(i)?

Districts reported waiving fees for the following: Prosecutors (County/District Attorneys), Attorney General's Office, Guardian Ad Litem, DCFS, AP&P and other Probation Agencies, FBI, BCI, State Police/Law Enforcement Agencies, Defense Attorneys/Public Defenders (UJDA), ORS, and Out of State Government Agencies.

CJA Rule 4-202.08(10)(A)(i) notes that for "any government entity of Utah or its political subdivisions if the fee is minimal" fees should be waived. Waiving fees for out of state government agencies may be a practice that needs to be corrected.

3. On average how much are you waiving a month per agency? Is this for audio or copy fees? Can you provide a rough estimate? [Please list agency and estimated amount]

There is no uniform way of tracking these waivers across the state. The table below summarizes information provided by the districts. These are averages.

District	Juvenile Court	District Court
1st	Not currently tracking	Not currently tracking
2nd	10 audio requests and 10 copy requests mainly from the Guardian Ad Litem's Office and the Attorney General's Office	AP&P: 5 copies Prosecutors: 100 certified copies, 8-9 audio requests FBI: 85 copies Out of State: 30 copies BCI: 10 copies AG: 2 audio requests, 10 copies
3rd	AG: \$120 in audio, \$20 copies. UJDA: \$45 audio GAL: \$30 audio	Not currently tracking. All copy fees are waived.
4th	On average 40-45 requests per month that includes certified copy requests from DCFS and limited audio requests.	Information not available

5th	On average 10 requests are waived per month.	On average 15 requests are waived per month.
6th	On average around \$50 per month (audio for public defenders, certified copies for AAGs)	
7th	On average \$30 per month for county attorney's offices. (audio fees for prosecutors)	
8th	An estimated \$50 a month [certified/exemplified copies for prosecutors and audio copies for the AAGs and GALs]	

Many districts currently waive requests for audio, and certified/exemplified copies for state agencies. With the proposed definition of “minimal” all state agencies would be impacted as requests for an “electronic copy of audio record or video record of court proceeding” is “\$15.00 for each one-half day of testimony or part thereof.” State agencies have already begun to be impacted as districts realized that UCJA Rule 4.202.08 does not apply to certified and exemplified fees.

4. How do you currently track these requests and waivers?

Six districts do not currently track these waivers or requests. Five districts only track requests for audio outside of the case management systems. One district tracks requests in CARE by creating the fees and then decreasing them. The fact that this is not being tracked appears related to the fact that there are no consistent statewide practices.

HB531, which was passed during the 2023 legislative session, requires the judiciary to report on waived fees, among other things, which adds to the importance of tracking these waived fees.

5. Have you had local conversations with partners about the proposed change and what if any feedback have you received?

Five districts report providing some notification to partner agencies. No district reported receiving any feedback from them. Internal feedback received includes:

- Implementation of this change may result in an increased number of fee waiver requests that require judicial review and staff time that may surpass the financial savings if the minimal amount is too low.
- Outside agencies may think that a \$10 definition of minimal sounds arbitrary because the accounting manual is an internal policy and they may think we set it intentionally below the \$15 audio fee so that we could charge for those.

- The Attorney General's Office understood the change in charging for certified and exemplified copies but noted concerns having to pay for audio fees when they are being asked to prepare orders.
- 6. **It's been reported that providing copies of audio records via FTR cloud is much easier than making copies in CDs/USBs. Copies of audio recordings are \$15 per unit according to Rule 4-202.08(3)(C). How much do you think a copy of a hearing should cost if shared via FTR cloud?**

Districts provided the feedback that copies of audio records shared via the FTR cloud is in fact easier than providing them using CDs or USBs. They recommend these be free or \$5 since they are sent or shared via email. One district noted that fees to send a document by email is \$5.00 for 10 pages or less, and that it takes about the same amount of time to share audio records via the FTR cloud. Districts agreed that if fee payments ought to match work input then the amount charged for these should be lowered.

At the July 8, 2024 Budget and Fiscal Management Committee Meeting, the Committee considered these responses and recommended that this be forwarded to the Judicial Council for final approval. Their recommendations included:

- Defining minimal in the accounting manual as anything \$10 or less. A slight change in definition from the initially proposed definition of "anything less than \$10 per transaction."
- That this change be accompanied by an amendment to CJA Rule 4-202.08(10)(A)(i) so that the fee for copies of audio records shared via the FTR cloud can be reduced.

Based on the foregoing, we respectfully request the Council adopt the recommendations of the Committee.

Rule 4-202.08. Fees for records, information, and services.**Intent:**

To establish uniform fees for requests for records, information, and services.

Applicability:

This rule applies to all courts of record and not of record and to the Administrative Office ~~of the Courts~~. This rule does not apply to the Self-Help Center.

Statement of the Rule:

(1) **Fees payable.** Fees are payable to the court or office that provides the record, information, or service at the time the record, information, or service is provided. The initial and monthly subscription fee for public online services is due in advance. The connect-time fee is due upon receipt of an invoice. If a public online services account is more than 60 days overdue, the subscription may be terminated. If a subscription is terminated for nonpayment, the subscription will be reinstated only upon payment of past due amounts and a reconnect fee equal to the subscription fee.

(2) **Use of fees.** Fees received are credited to the court or office providing the record, information, or service in the account from which expenditures were made. Fees for public online services are credited to the Administrative Office ~~of the Courts~~ to improve data quality control, information services, and information technology.

(3) **Copies.** Copies are made of court records only. The term "copies" includes the original production. Fees for copies are based on the number of record sources to be copied or the means by which copies are delivered and are as follows:

(3)(A) paper except as provided in (D): \$.25 per sheet;

(3)(B) electronic storage medium other than of court hearings: \$15.00 per unit;

(3)(C) electronic copy of audio record or video record of court proceeding: \$15.00 for each one-half day of testimony or part thereof; ~~and~~

(3)(D) access to audio record of court proceedings via the FTR Cloud: \$10.00 per transaction; and

(3)(~~E~~) pre-printed forms and associated information: an amount for each packet established by the state court administrator.

(4) **Mailing.** The fee for mailing is the actual cost. The fee for mailing ~~shall will~~ include necessary transmittal between courts or offices for which a public or private carrier is used.

(5) **Fax or e-mail.** The fee to fax or e-mail a document is \$5.00 for 10 pages or less. The fee for additional pages is \$.50 per page. Records available on Xchange will not be faxed or e-mailed.

(6) **Personnel time.**

(6)(A) There is no fee for the first 15 minutes of personnel time required to provide the copy, record, information, or service, unless the person who submits the request:

(6)(A)(i) is not a Utah media representative; and

(6)(A)(ii) has submitted a separate records request within the 10-day period immediately prior to the date of the request to which the court or office is responding.

(6)(B) The fee for time beyond the first 15 minutes is charged in 15-minute increments for any part thereof. The fees for personnel time may be set by the State Court Administrator and the rates charged should be for the least expensive group capable of providing the record, information, or service.

Commented [KW1]: Does this satisfy 78A-2-301(1)(bb) or is the Council required to include the rates in the rule?

(7) **Public online services.**

(7)(A) The fee to subscribe to Xchange ~~shall will~~ be as follows:

Commented [KW2]: Same as above. Can the SCA be granted the authority to set Xchange fees and post them on the website?

(7)(A)(i) a set-up fee of \$25.00;

(7)(A)(ii) a subscription fee of \$40.00 per month for any portion of a calendar month; and

(7)(A)(iii) \$.15 for each search over 500 during a billing cycle. A search is counted each time the search button is clicked.

(7)(B) The fee to access public online services without subscribing ~~shall will~~ be a transaction fee of \$5.00, which will allow up to 10 searches during a session.

(7)(C) The fee to access a document ~~shall will~~ be \$.50 per document.

(8) **Bulk Data.** If approved, individuals or entities may subscribe to receive indexed court data authorized under rule 4-202.02(2)(L) electronically in bulk. The fee to receive bulk data may be set by the State Court Administrator. Requests for bulk data should be made to the Office of Judicial Data and Research.

(9) **No interference.** Records, information, and services ~~shall will~~ be provided at a time and in a manner that does not interfere with the regular business of the courts. The Administrative Office of the Courts may disconnect a user of public online services whose use interferes with computer performance or access by other users.

87 (10) **Waiver of fees.**

88
89 (10)(A) Subject to (10)(B), fees established by this rule, other than fees for bulk data and
90 public online services, ~~shall will~~ be waived for:

91
92 (10)(A)(i) any government entity of Utah or its political subdivisions ~~if the fee is~~
93 ~~minimal~~;

94
95 (10)(A)(ii) any person who is the subject of the record and who is indigent;

96
97 (10)(A)(iii) any court appointed attorney acting on behalf of a client, if the client
98 would qualify for a fee waiver under (10)(A)(ii); and

99
100 (10)(A)(iv) a student engaged in research for an academic purpose.

101
102 (10)(B) Individuals who qualify for a fee waiver under (10)(A)(ii) and (10)(A)(iii) are
103 entitled to one free copy of the record requested. The State Court Administrator may
104 waive the one free copy limit for administrative records or records associated with a
105 case. Clerks of Court or the clerk's designee in courts of record and justice court
106 designees in courts not of record, may waive the one free copy limit for records
107 associated with a case. under this rule for good cause.

108
109 (10)(C) Fees for public online services ~~shall will~~ be waived for:

110
111 (10)(C)(i) up to 10,000 searches per year for a news organization that gathers
112 information for the primary purpose of disseminating news to the public and that
113 requests a record to obtain information for a story or report for publication or
114 broadcast to the general public;

115
116 (10)(C)(ii) any government entity of Utah or its political subdivisions;

117
118 (10)(C)(iii) the Utah State Bar;

119
120 (10)(C)(iv) public defenders for searches performed in connection with their
121 duties as public defenders; and

122
123 (10)(C)(v) any person or organization who the XChange administrator determines
124 offers significant legal services to a substantial portion of the public at no charge.

125
126 (10)(D) Fees for bulk data will be waived for:

127
128 (10)(D)(i) any government entity of Utah or its political subdivisions;

129
130 (10)(D)(ii) the Utah State Bar;

131
132 (10)(D)(iii) public defenders for searches performed in connection with their
133 duties as public defenders; and
134
135 (10)(D)(iv) a student engaged in research for an academic purpose.
136
137 Effective: ~~January~~ May 7, 202~~5~~4

TAB 9

CJA 4-202.02. Records classification

CJA 4-510.06. Cases exempt from ADR rules

CJA 4-613. Jail prisoner transportation

CJA 4-202.03. Records access

Notes: The proposed amendments to rules 4-202.02, 4-510.06, and 4-613 update statutory references in response to recodifications during the legislative session.

The majority of the redlines in rule 4-202.02 were adopted by the Council as final in December 2024 and February 2025, all with a May 1, 2025 effective date. These updates would be included when the older amendments go into effect.

The proposed amendments to rule 4-202.03 are in response to [HB 129](#), which significantly impacts the classification of, and access to, adoption records. In light of those changes, it seems better to keep the rule general by referring to the statute.

Rule 4-202.02. Records Classification.**Intent:**

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee ~~of the Judicial Council~~, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) licensed paralegal practitioner name;

(2)(L)(iv) case number;

(2)(L)(v) case status;

(2)(L)(vi) civil case type or criminal violation;

(2)(L)(vii) civil judgment or criminal disposition;

(2)(L)(viii) daily calendar;

(2)(L)(ix) file date;

(2)(L)(x) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer or licensed paralegal practitioner appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(Q) name, business address, and business telephone number of judges;

(2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(U) order or decision classifying a record as non~~u~~-t public;

(2)(V) private record if the subject of the record has given written permission to make the record public;

~~(2)(W) probation progress/violation reports;~~

(2)(~~W~~X) publications of the ~~A~~administrative ~~O~~office of the courts;

(2)(~~XY~~) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(~~YZ~~) record of the receipt or expenditure of public funds;

(2)(~~ZAA~~) record, minutes, or transcript of an open meeting;

(2)(~~AABB~~) official audio record, minutes, or transcript of an open hearing;

(2)(~~BBGG~~) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(~~CCDD~~) record of a request for a record;

(2)(~~DDEE~~) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(~~EEFF~~) rules of the Supreme Court and Judicial Council;

(2)(~~FFGG~~) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under ~~Utah Rule of Criminal Procedure 40~~ of the Utah Rules of Criminal Procedure;

(2)(~~GGHH~~) statistical data derived from public and non-public records but that disclose only public data; and

(2)(~~HHH~~) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary ~~shall~~ will contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses. Upon a finding of good cause on the record, the juvenile court may reclassify these records as non-public.

(3) Sealed Court Records. The following court records are sealed:

(3)(A) records in the following actions:

(3)(A)(i) ~~Utah Code, Title 8178B, Chapter 136, Part 1, Utah Adoption Act~~, six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(ii) ~~Utah Code, Title 8178B, Chapter 45, Part 8, Gestational Agreement~~, six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(iii) Utah Code s~~S~~Section 76-7-304.5.— Consent required for abortions performed on minors; and

(3)(A)(iv) Utah Code s~~S~~Section 78B-8-402.— Actions for disease testing;

(3)(B) expunged records;

(3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code s~~S~~Section 77-23a-15;

(3)(D) records showing the identity of a confidential informant;

(3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code s~~S~~Section 7-2-6;

(3)(F) wills deposited for safe keeping under Utah Code, Section-title 75, chapter -2, part -9, Custody and Deposit of Wills~~04~~;

(3)(G) records designated as sealed by rule of the Supreme Court;

(3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings;

(3)(I) on appeal, any record previously designated as sealed by another court;

(3)(J) video record of a court proceeding, other than security video; ~~and~~

(3)(K) "nonpublic restitution records" as defined in Utah Code section 63M-7-502; and

(3)(~~L~~K) other records as ordered by the court under Rule 4-202.04.

(4) Private Court Records. The following court records are private:

(4)(A) records in the following actions:

(4)(A)(i) Utah Code s~~S~~Section 26B-5-332, Involuntary commitment under court order;

(4)(A)(ii) Utah Code s~~S~~Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Utah Code, t~~T~~itle 8178B, c~~C~~hapter 136, p~~P~~art 1, Utah Adoption Act, until the records are sealed;

(4)(A)(iv) Utah Code, t~~T~~itle 8178B, c~~C~~hapter 15, p~~P~~art 8, Gestational Agreement, until the records are sealed;

(4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment; and

(4)(A)(vi) Utah Code sSection 26B-8-111, Sex designation changes, and name changes combined with sex designation changes for both minors and adults, except that:

(4)(A)(vi)(a) the case history is public for minors; and

(4)(A)(vi)(b) the case history and record of public hearings are public for adults.

(4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:

(4)(B)(i) Utah Code, tTitle 8130, ~~Husband and Wife~~Utah Domestic Relations Code, including qualified domestic relations orders, except that an action for consortium due to personal injury under Utah Section ~~30-2-118~~1-3-111 is public;

(4)(B)(ii) Utah Code, Title 75, cChapter 5, Protection of pPersons under dDisability and their Property;

(4)(B)(iii) Utah Code, tTitle 78B, cChapter 7, Protective Orders and Stalking Injunctions;

(4)(B)(iv) Utah Code, tTitle 8178B, cChapter 612, ~~Utah Child Support Act~~Child Support;

(4)(B)(v) Utah Code, tTitle 8178B, cChapter 113, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(4)(B)(vi) Utah Code, tTitle 8178B, cChapter 814, Uniform Interstate Family Support Act;

(4)(B)(vii) Utah Code, Title 8178B, cChapter 45, Utah Uniform Parentage Act; and

(4)(B)(viii) an action to modify or enforce a judgment in any of the actions in this subparagraph (4)(B);

(4)(C) records related to determinations of indigency;

(4)(D) an affidavit supporting a motion to waive fees;

(4)(E) aggregate records other than public aggregate records under subsection paragraph (2);

(4)(F) alternative dispute resolution records;

(4)(G) applications for accommodation under the Americans with Disabilities Act;

(4)(H) jail booking sheets;

(4)(I) citation, but an abstract of a citation that redacts all non-public information is public;

(4)(J) judgment information statement;

(4)(K) judicial review of final agency action under Utah Code ~~s~~Section 80-2-707;

(4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;

(4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information;

(4)(N) medical, psychiatric, or psychological records;

(4)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:

(4)(O)(i) name change of a minor, unless the name change is combined with a sex designation change;

(4)(O)(ii) guardianship or conservatorship for a minor;

(4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;

(4)(O)(iv) protective orders and stalking injunctions; and

(4)(O)(v) custody orders and decrees;

(4)(P) nonresident violator notice of noncompliance;

(4)(Q) personnel file of a current or former court personnel or applicant for employment;

(4)(R) photograph, film, or video of a crime victim;

(4)(S) record of a court hearing closed to the public or of a child's testimony taken under ~~URCrP~~ Rule 15.5 of the Utah Rules of Criminal Procedure:

(4)(S)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(S)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(T) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

- (4)(U) record submitted for in camera review until its public availability is determined;
- (4)(V) reports of investigations by Child Protective Services;
- (4)(W) statement in support of petition to determine competency;
- (4)(X) victim impact statements;
- (4)(Y) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;
- (4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;
- (4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;
- (4)(BB) records related to Court Commissioner Conduct Committee and Council actions under Rule 3-201.02, other than a public censure by the Council, and
- (4)(CC) other records as ordered by the court under Rule 4-202.04.

(5) Protected Court Records. The following court records are protected:

- (5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;
- (5)(B) records that are subject to the attorney client privilege;
- (5)(C) bids or proposals until the deadline for submitting them has closed;
- (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
- (5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;
- (5)(F) court security plans;
- (5)(G) investigation and analysis of loss covered by the risk management fund;
- (5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;
- (5)(I) confidential business records under Utah Code ~~s~~Section 63G-2-309;

(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:

(5)(J)(i) interfere with an investigation;

(5)(J)(ii) interfere with a fair hearing or trial;

(5)(J)(iii) disclose the identity of a confidential source; or

(5)(J)(iv) concern the security of a court facility;

(5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;

(5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;

(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;

(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;

(5)(O) record the disclosure of which would jeopardize life, safety, or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code ~~s~~Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report;

(5)(U) probation progress/violation reports;

(5)(V) except for those filed with the court, records maintained and prepared by juvenile probation; and

(5)(~~W~~V) other records as ordered by the court under Rule 4-202.04.

(6) Juvenile Court Social Records. The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

- (6)(C) medical, psychological, psychiatric evaluations;
- (6)(D) pre-disposition, dispositional, and social summary reports;
- (6)(E) probation agency and institutional reports or evaluations;
- (6)(F) referral reports;
- (6)(G) report of preliminary inquiries;
- (6)(H) treatment or service plans;
- (6)(I) nonjudicial adjustment records; and
- (6)(J) documents filed with the court that were received pursuant to the Utah Interstate Compact for Juveniles.

(7) Juvenile Court Legal Records. The following are juvenile court legal records:

- (7)(A) accounting records;
- (7)(B) discovery filed with the court;
- (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees, probable cause statements;
- (7)(D) name of a party or minor;
- (7)(E) record of a court hearing;
- (7)(F) referral and offense histories; and
- (7)(G) any other juvenile court record regarding a minor that is not designated as a social record.

(8) Safeguarded Court Records. The following court records are safeguarded:

- (8)(A) upon request, location information, contact information, and identity information, other than the name of a petitioner and other persons to be protected, in an action filed under Utah Code, Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
- (8)(B) upon request, location information, contact information and identity information, other than the name of a party or the party's child, after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Utah Code, Title 81-78B, Chapter 113, Utah Uniform Child Custody Jurisdiction and Enforcement Act, ~~or Utah Code, Title 81-78B, Chapter 84~~, Uniform Interstate Family Support Act; ~~or~~ Utah Code, Title 81-78B, Chapter 15, Utah Uniform Parentage Act;
- (8)(C) upon request, if the information has been safeguarded under paragraph (8)(A) or

(8)(B), location information, contact information and identity information, other than the name of a party or the party's child, in a proceeding under Utah Code, Title 81-30, Husband and Wife Utah Domestic Relations Code;

(8)(D) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;

(8)(E) location information, contact information, and identity information other than name of a prospective juror summoned to attend court; and

(8)(F) the following information about a victim or witness of a crime: including, upon receipt of notice, a participant in the Safe at Home Program under Utah Code, title 77, chapter 38, part 6, Safe at Home Program:

(8)(F)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;

(8)(F)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information-;

(8)(F)(iii) except for a Safe at Home Program participant's assigned address, documents showing a participant's enrollment, including the authorization card, for a program participant under Utah Code, title 77, chapter 38, part 6, Safe at Home Program.

Effective ~~January~~ May 1, 2025~~4~~

Rule 4-202.03. Records access**Intent:**

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** No one may access a sealed court record except as authorized below or by order of the court. A judge may review a sealed record when the circumstances warrant.

(2)(A) **Adoption records.** Upon request and presentation of positive identification, adoption records may be accessed according to Utah Code title 81, chapter 6, or pursuant to any court order that may have been entered. ~~an adoption petition, and any other documents filed in connection with the adoption, may be open to inspection and copying;~~

~~(2)(A)(i) by a party to the adoption proceeding while the proceeding is pending or within six months after the day on which the adoption decree is entered;~~

~~(2)(A)(ii) when the adoption document becomes public on the one hundredth anniversary of the date of the final decree of adoption was entered;~~

~~(2)(A)(iii) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;~~

~~(2)(A)(iv) by an attorney who is not the attorney of record with a release from an individual authorized access under this rule that is signed and notarized not more than 90 days before the date of the request for the records;~~

~~(2)(A)(v) by an individual who was 18 years of age or older at the time of adoption or their adoptive parent, without a court order, unless the final decree of adoption was entered by the juvenile court; and~~

~~(2)(A)(vi) by an individual who was a minor at the time of adoption, if the individual is 18 years of age or older and was born in the state of Utah, but only to the extent the birth parent consented to access under the Utah Adoption Act or if the birth parents listed on the original birth certificate are deceased.~~

(2)(B) **Expunged records.**

(2)(B)(i) The following may obtain certified copies of the expungement order and the case history upon request and presentation of positive identification:

(2)(B)(i)(a) the petitioner or an individual who receives an automatic expungement under Utah Code ~~T~~itle 77, ~~c~~Chapter 40a or Utah Code ~~s~~Section 77-27-5.1;

(2)(B)(i)(b) a law enforcement officer involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case;

(2)(B)(i)(c) parties to a civil action arising out of the expunged incident, if the information is kept confidential and utilized only in the action; and

(2)(B)(i)(d) an attorney who is not the attorney of record with a release from an individual authorized access under this rule that is signed and notarized not more than 90 days before the date of the request.

(2)(B)(ii) Information contained in expunged records may be accessed by qualifying individuals and agencies under Utah Code ~~s~~Section 77-40a-403 upon written request and approval by the state court administrator in accordance with Rule 4-202.05. Requests must include documentation proving that the requester meets the conditions for access and a statement that the requester will comply with all confidentiality requirements in Rule 4-202.05 and Utah Code.

(2)(C) **Video records.** An official court transcriber may obtain a video record of a court proceeding for the purposes outlined in Rule 5-202. A court employee may obtain a video record of a court proceeding if needed to fulfill official court duties.

(3) **Private Court Records.** The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party, attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

(3)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

(4) Protected Court Records. The following may access a protected court record:

(4)(A) the person or governmental entity whose interests are protected by closure;

(4)(B) the parent or guardian of the person whose interests are protected by closure if the person is an unemancipated minor or under a legal incapacity;

(4)(C) the person who submitted the record;

(4)(D) the attorney or licensed paralegal practitioner for the person who submitted the record or for the person or governmental entity whose interests are protected by closure or for the parent or guardian of the person if the person is an unemancipated minor or under a legal incapacity or an individual who has a power of attorney from such person or governmental entity;

(4)(E) an individual with a release from the person who submitted the record or from the person or governmental entity whose interests are protected by closure or from the parent or guardian of the person if the person is an unemancipated minor or under a legal incapacity signed and notarized no more than 90 days before the date the request is made;

(4)(F) a party, attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(4)(G) anyone by court order;

(4)(H) court personnel, but only to achieve the purpose for which the record was submitted;

(4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

(5) Juvenile Court Social Records. The following may access a juvenile court social record:

(5)(A) the subject of the record, if 18 years of age or over;

(5)(B) a parent or guardian of the subject of the record, or their attorney, if the subject is an unemancipated minor;

(5)(C) an attorney or person with power of attorney for the subject of the record;

(5)(D) a person with a notarized release from the subject of the record or the subject's legal representative dated no more than 90 days before the date the request is made;

(5)(E) the subject of the record's therapists and evaluators;

(5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(G) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(H) the Department of Human Services, school districts and vendors with whom they or the courts contract (who must not permit further access to the record), but only for court business;

(5)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

(5)(K) the person who submitted the record;

(5)(L) public or private individuals or agencies providing services to the subject of the record or to the subject's family, including services provided pursuant to a nonjudicial adjustment, if a probation officer determines that access is necessary to provide effective services; and

(5)(M) anyone by court order.

(5)(N) Dispositional reports on delinquency cases may be accessed by the minor's counsel, the prosecuting attorney, the guardian ad litem, and the counsel for the parent, guardian, or custodian of a child. When a minor or minor's parent, guardian, or custodian is not represented by counsel the court may limit inspection of reports by the minor or the minor's parent, guardian, or custodian if the court determines it is in the best interest of the minor.

(5)(O) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

(5)(O)(i) a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(O)(ii) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(O)(iii) court personnel, but only to achieve the purpose for which the record was submitted; and

(5)(O)(iv) anyone by court order.

(5)(P) When releasing records under (5)(O)(iv), the court should consider whether releasing the records to the subject of the record would be detrimental to the subject's mental health or the safety of any individual, or would constitute a violation of normal professional practice and medical ethics.

(5)(Q) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

(6) Juvenile Court Legal Records. The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) public or private individuals or agencies providing services to the subject of the record or to the subject's family;

(6)(E) the victim of a delinquent act may access the disposition order entered against the minor; and

(6)(F) the parent or guardian of the victim of a delinquent act may access the disposition order entered against the minor if the victim is an unemancipated minor or under legal incapacity.

(7) Safeguarded Court Records. The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney or licensed paralegal practitioner for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

(7)(I) a person given access to the record in order for juvenile probation to fulfill a probation responsibility.

(8) Juvenile court probation records. Records prepared and maintained by juvenile court probation that are not filed in a juvenile court case are not open for inspection except by order of the court.

(9) Court personnel may not permit access to court records by unauthorized persons. The court may order anyone who accesses a non-public record not to permit further access, the violation of which may be contempt of court.

(10) If a court or court employee in an official capacity is a party in a case, the records of the party and the party's attorney are subject to the rules of discovery and evidence to the same extent as any other party.

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264 *Effective: November 1, 2025*

Rule 4-510.06. Cases exempt from ADR rules.**Intent:**

To identify the actions exempt from Rules 4-510.01 through 4-510.05.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) Rules 4-510.01 through 4-510.05 do not apply to the following actions:

(1)(A) Title 26B, Chapter 3, Part 10, Medical Benefits Recovery;

(1)(B) Title 26B, Chapter 9, Recovery Services and Administration of Child Support;

(1)(C) Title 78B, Chapter 7, Part 61, Cohabitant Abuse Protective Orders;

(1)(D) Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(1)(E) Rules 65A, 65B and 65C of the Utah Rules of Civil Procedure; and

(1)(F) uncontested matters.

(2) Rules 4-510.01 through 4-510.05 do not apply to the following actions, but they may undergo ADR procedures under other programs:

(2)(A) Title 78A, Chapter 8, Small Claims Court; and

(2)(B) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer.

(3) Rules 4-510.01 through 4-510.05 do not apply to the following actions, but the judge may direct that they undergo ADR procedures under these rules:

(3)(A) Title 81, Chapter 6, Child Support;

(3)(B) Title 81, Chapter 8~~Title 78B, Chapter 14~~, Uniform Interstate Family Support Act;

(3)(C) Title 81, Chapter 5~~Title 78B, Chapter 15~~, Utah Uniform Parentage Act;

(3)(D) Title 81, Chapter 11~~Title 78B, Chapter 13~~, Utah Uniform Child Custody Jurisdiction and Enforcement Act; and

(3)(E) temporary orders requested under Title 81, Chapter 4, Dissolution of Marriage, except temporary separation orders under Section 81-4-104.

Effective: ~~November 1, 2024~~May 1, 2025

Rule 4-613. Jail prisoner transportation**Intent:**

To establish a procedure for designating on the statewide warrants system offenses which require transportation of an individual arrested in a county other than the county from which the warrant was issued.

Applicability:

This rule ~~shall apply~~applies to all warrants issued on or after November 1, 2011.

Statement of the Rule:

(1) Unless otherwise ordered by the court, warrants for the following offenses will require transportation from the county in which the defendant is arrested:

(1)(A) felonies;

(1)(B) class A misdemeanors; and

(1)(C) class B misdemeanors charged under Utah Code Title 76 Chapter 5 (Offenses Against the Person), Title 76, Chapter 11, Weapons ~~Chapter 10, Part 5 (Weapons)~~, and Title 41, Chapter 6a, Part 5 (Driving Under the Influence and Reckless Driving).

(2) Unless otherwise ordered by the court, warrants for the following offenses will require transportation only within the county from which the warrant originates:

(2)(A) class B misdemeanors not included in paragraph (1); and

(2)(B) class C misdemeanors.

Effective: ~~11/1/2011~~May 1, 2025