

# Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, June 16, 2023, 12:00 pm | 2 hours |

## AGENDA

	Topic	Presenter	Materials
<b>12:00</b>	<b>Meeting begins</b>		
	<ul style="list-style-type: none"><li>• Housekeeping, minutes</li><li>• Welcome new members:<ul style="list-style-type: none"><li>– Judge Brian Cannell, 1<sup>st</sup> District Court</li></ul></li></ul>	Judge Kelly	– <i>WINGS Minutes (April 2023 – draft)</i>
<b>12:10</b>	<b>Ongoing Projects</b>		
	– Legal “sandbox”	Group Discussion	– <i>Sandbox Information and Proposal Outline</i> – <i>Sandbox Manual</i>
	– Utah Code 75-5-303	Group Discussion	– <i>Utah Code 75-5-303 (redline draft 12.22.22)</i>
<b>1:30</b>	<b>Stakeholder &amp; Project Updates</b>		
	<ul style="list-style-type: none"><li>• New Judge Orientation</li><li>• CJA Rules 6-501 &amp; 6-507</li><li>•</li></ul>	Judge Kelly Shonna Thomas Stakeholders	
<b>1:45</b>	<b>Other Business</b>		
	<ul style="list-style-type: none"><li>•</li><li>•</li></ul>	WINGS Stakeholders	
<b>2:00</b>	Meeting adjourned		

**Next meeting:** **August 17, 2023** (via WebEx)



<https://utahinnovationoffice.org/>

## What We Do

The Innovation Office of Legal Services Innovation (“Innovation Office”), directed by the Legal Services Innovation Committee of the Utah Supreme Court, regulates non-traditional legal businesses (alternative business structures, or “ABSs”) and legal service providers (alternative legal providers, or “ALPs”) in Utah’s legal regulatory Sandbox. The Utah State Bar houses the Innovation Office and oversees its day-to-day operations.

The Innovation Office’s Objective is to ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

The Innovation Office reviews applications to participate in the Sandbox for innovative methods of creating and delivering legal services to those underserved by the current legal market. If an entity is authorized to participate in the Sandbox, the Innovation Office collects data and monitors providers for consumer harms and benefits. The Innovation Office has the authority to enforce regulatory requirements and suspend authorization when there is confirmed evidence of consumer harm.

Entities apply to the Sandbox if they have an entity or service method that would not have been permitted under the traditional rules governing law practice. The traditional rules limited ownership of all legal practice entities (i.e., law firms) to lawyers and limited all practice of law activities (i.e., legal advice, negotiation, representation) to lawyers. In the Sandbox, the Utah Supreme Court may authorize the following types of entities or services:

- firms, companies, or organizations using ALPs (nonlawyers or software) to practice law
- traditional law firms taking on nonlawyer investment or ownership
- traditional law firms and lawyers entering into profit-sharing relationships with nonlawyers
- nonlawyer-owned entities employing lawyers to practice law
- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law
- entities providing intermediary services to connect lawyers to consumers in new ways
- other innovative methods or services not permitted under the traditional rules.

## What are Sandbox entities allowed to do that would otherwise be prohibited by rule?

The Sandbox primarily tests whether two rules thought to protect consumers are unnecessarily stifling the kind of innovation that could narrow the access to justice gap—[RPC Rule 5.4](#) and [UCJA Rule 14-802](#).

Rule 5.4 is considered to protect lawyer independence by prohibiting fee sharing with non-lawyers who are not subject to the Rules of Professional Conduct. Under this rule, if you're a lawyer with innovative ideas for new ways to deliver legal services, you can't partner with a non-lawyer who has the know-how or capital you need to invest in new technologies and services. Through the Sandbox, the Court hopes to learn whether Rule 5.4 is necessary to prevent consumer harm or whether it merely prevents consumer-friendly innovation. Sandbox entities that seek a waiver of this rule are known as Alternative Business Structures ("ABS").

Rule 14-802 prohibits the unauthorized practice of law. Under this rule, the "practice of law" is defined broadly to include any application of legal principles to a person's specific facts and circumstances. Recognizing that most people with civil legal problems do not get help from a lawyer, the Court hopes to assess whether the benefit of delivering legal services to those consumers through the use of technology or trained non-lawyers outweighs any potential risk. Sandbox entities that seek a waiver of this rule are known as Alternative Legal Providers ("ALP"). Many ALPs are also using an ABS in order to fund technological advancements or other innovations. Both ABS and ALP entities can seek waivers of other rules on a case-by-case basis.

The Sandbox is for all entity and service models that fall or could fall under [Utah Rule of Professional Conduct 5.4](#) and [Utah Supreme Court Standing Order No. 15](#).

## Draft "Policy Memo" outline, from Sue Crismon

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### Acronyms Explained:

- ALPs – Alternative Legal Providers
- DLC – Disability Law Center
- HALPs – Human Alternative Legal Providers
- JA – Judicial Assistant
- LPP – [Licensed Paralegal Practitioner](#)
- OCAP – Online Court Assistance Program
- TLC – Teaching/Learning Center (possibly)

# POLICY MEMORANDUM

From: WINGS Committee  
To: Utah Supreme Court  
Date: May 6, 2023  
Re: Guardianship Signature Program as Sandbox Participant

## Problem

1. JA difficulty finding volunteer lawyers (pro bono cannot bridge the access gap)
2. Language barriers
3. Navigators needed
4. Vulnerable population who are currently getting little to no to legal help (requestor is usually the representative not the protected person)

## Potential Solutions

1. Increase volunteer participation (better marketing, retired attorneys)
2. Make Guardianships an LPP legal area and create training program
3. Sandbox entity to address problem through HALPs

## Sandbox Proposal

1. Identify "entity" – who would be the participant in the Sandbox?
  - a. Legal non-profit like DLC?
  - b. University law clinic?
  - c. WINGS committee?
  - d. Community Based Organization (perhaps a TLC like structure)
  - e. Parent center
  - f. Edu counselors
2. Create training for involved ALPs (Michelle Wilkes)
  - a. What cases are too complex for the ALPs?
  - b. Can we use ALPs & LPPs to do initial client interviews and review the record?
  - c. Checklist in bench book, OCAP forms,
3. Develop process for placement to ALPs when case is filed

## Court Ask

1. Court rule that interprets UCA 75-5-303 "appoint an attorney" to mean "appoint a legal professional" to allow LPP & ALPs
- 2.

# Innovation Office Manual

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Published May 1, 2023



The Office of Legal Services Innovation



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# I. INTRODUCTION

This manual contains the policies and procedures of the Office of Legal Services Innovation ("Office") through which it executes the Utah Supreme Court's ("Court") mandate to regulate nontraditional legal services and entities under the direction of the Court's Legal Services Innovation Committee ("LSI Committee").

This is a working document. The Court and Office frequently update this manual and notify Sandbox participants of any changes. While guided by this manual, the Court and LSI Committee ultimately base Sandbox decisions using their discretion, guided by [Standing Order 15](#)'s **Regulatory Objective** and **Regulatory Principles**, and subsequent Court rules.

The Sandbox is the mechanism by which entities and Service Methods that have not traditionally been permitted in the Utah legal system may provide legal services. Such practices may include:

- firms, companies, or organizations using Alternative Legal Providers (human or software) to practice law
- traditional law firms taking on nonlawyer investment or ownership
- traditional law firms and lawyers entering into profit-sharing relationships with nonlawyers
- nonlawyer-owned entities employing lawyers to practice law
- lawyers or firms entering joint ventures or other forms of business partnerships with nonlawyer entities or individuals to practice law
- entities providing intermediary services to connect lawyers to consumers in new ways
- other innovative methods or services not permitted under the traditional rules.

## Decision Making Principles & Process

### Regulatory Principles

Regulation should be based on the evaluation of potential harm to the consumer.

Harm to the consumer should be evaluated relative to the current legal services options available.

Regulation should establish probabilistic thresholds for acceptable levels of harm.

Regulation should be empirically driven.

Regulation should be guided by a market-based approach.

### Regulatory Objective

To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

The Office's regulatory actions, directed by the LSI Committee, are limited to those that advance its **Regulatory Objective**. As the Regulatory Objective describes, ensuring consumer access is the primary criterion for Office decision-making. In striving to answer whether a given action furthers the Regulatory Objective, the Office balances the benefits of the legal services offered and the **Risk of Consumer Harm**.

Every risk of harm to consumers cannot currently be quantified. Risk assessments are inherently imprecise, as knowledge of all the relevant variables is incomplete, and any given outcome depends on multiple and complex considerations. The reliance on empirical evidence should not imply false precision. Judgment must be used where relevant and reliable data are absent.

## Regulated Consumer Harms

- Consumer achieves an inaccurate or inappropriate legal result



- Consumer fails to exercise legal rights through ignorance or bad advice
- Consumer purchases an unnecessary or inappropriate legal service

### Decision Process Objective

Ensuring that all Office decisions are unbiased and based on a proper, objective consideration of all facts, the Regulatory Objective, and the Regulatory Principles.

## Decision Process Principles

<b>Equal Access</b>	All parties have the same opportunity to access decision makers.
<b>Coherent</b>	Decisions and the reasons are reasonably and clearly explained.
<b>Transparent</b>	All parties know what information and arguments the Office is considering in rendering a decision.
<b>Efficient</b>	Decisions will be made in a timely manner.
<b>Standard for Sufficiency of Data</b>	The data considered alongside all associated information (about the entity, ownership, management, target consumers) must be of sufficient quality to inspire confidence in the regulatory action (authorization/license to practice, enforcement).
<b>Operational Decision Criteria</b>	The Office bases its decisions on empirical evidence whenever possible, using data and numbers to identify and understand the potential harm that consumers currently experience and are likely to be exposed to with new legal services.

## II. APPLYING FOR THE SANDBOX

### Who is *not* eligible to apply for the Sandbox?

Individuals and entities that carry out the following activities are outside the Office’s regulatory scope and remain under the Utah Bar’s authority. Therefore, they do not need to be regulated by the Office.

- Partnerships, corporations, and companies entirely owned and controlled by lawyers in good standing;
- Individual lawyers with an active Utah Bar license and legal services nonprofits:
  - offering traditional legal services as permitted under the Rules of Professional Conduct; or
  - using new advertising or solicitation approaches as contemplated by the Rules of Professional Conduct.

#### Other entities not eligible for the Sandbox include

- Entities that cannot ensure that lawyers comply with their rules of professional conduct and other applicable rules or statutes.
- Entities in which a disbarred or suspended lawyer owns more than 10% interest.

### Steps to Apply for the Legal Sandbox

#### ■ Build your Entity Structure and Service Method

- Do you already have an entity? Is it registered in Utah and in good standing?
- What legal service do you want to provide? Who will provide the services?
- Are you interested in forming a partnership between a lawyer and a nonlawyer? What role will each play in delivering legal services to consumers? Who will own the entity and manage the providers?
- Do you want to provide services through a Human [Alternative Legal Provider \(“HALP”\)](#)? What training will your entity or another professional provide to your HALPs? How will you make sure they are competent to provide the services? How will you manage and report consumer complaints?
- Do you want to provide services through [Software \(“SALP”\)](#)? How sophisticated will your software be? Will it spot legal issues based on consumers’ answers? Will it give legal advice? Will it draft pleadings for consumers beyond fill-in-the-blank forms?

#### ■ Apply online at [utahinnovationoffice.org](http://utahinnovationoffice.org)

- Complete the [Sandbox Application](#) by requesting access [online](#).

- Attach any additional materials that support your application submission.
- Pay the \$250 application fee at submission.

### ■ Respond to any application follow-up questions.

- If the Office or LSI Committee has any questions about your application, the Office will contact you to ensure they have enough information to recommend your entity to the Court.
  - The Office does not consider your application complete until it confirms your submission is sufficiently complete, including background checks, owner/manager certifications, and application fees paid.
  - The LSI Committee will review your application and recommend the Court either approve or deny the application.
  - The Court will review the LSI Committee's recommendation. If the Court approves your application, it will issue an Authorization Order granting your entity authorized to practice law in the Sandbox as outlined in the Order.
    - The Court may grant a [Provisional Authorization](#) to give you time to develop your services or get funding, or for the Office to assess your services.
  - The Office will send you the Court's Authorization Order and instructions to schedule an authorization call to review your authorization and reporting requirements.

## Important Application Terms



### Consumer

The client, or customer, of your legal services<sup>1</sup>.

### Entity

A law firm, business, organization, or individual who intends to form an entity that applies or is authorized to participate in the Sandbox. The Office only authorizes entities to participate.

### Legal Area

The Legal Area in which the entity provides legal services. This can be a key Legal Area - the area of law in which the entity is specifically authorized to provide services or an ancillary Legal Area which an entity encounters when providing services in their key Legal Area. The Office breaks Legal Areas into the following categories:

- Business, Corporate, or Commercial
- Civil & Disability Rights
- Consumer
- Criminal
- Expungement
- Domestic or Intimate Partner Violence
- Education
- Elder
- Employment & Unemployment
- Environmental & Land Use
- Family & Marriage
- Healthcare
- Immigration
- Intellectual Property
- Landlord/ Tenant
- Municipal
- Native American/ Tribal
- Personal Injury
- Public Benefits
- Real Estate
- Tax
- Traffic
- Wills/ Estates
- Workplace Safety

### Managers

All persons and entities who wholly or partially direct the management or policies of the entity, and/or the direct provision of legal services to consumers, whether through ownership of securities, by contract, or otherwise, including a mentor who manages the person providing the legal services. Also called “controlling persons.”

### Owners

All persons and entities who wholly or partially ( 10% or more) finance the business (i.e. the services) of the entity. Also called “financing persons.”

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<sup>1</sup> For some Service Methods, an entity may have more than one consumer, i.e. an intermediary platform that connects attorneys and consumers would consider both the attorney and consumer to be the consumer of its services. Whereas, an ALP providing services to individuals or small businesses would consider the receiver of the services the consumer.

**Service Method**

The method or entity structure an entity uses to deliver legal services to its consumers.

**Types of Service Methods****Alternative Business Structure (“ABS”)**

An entity that includes nonlawyers who have an interest, including profit sharing or decision-making authority in the entity, and engages in the practice of law as defined in [Utah Supreme Court Rule 14-802\(b\)\(1\)](#).

**Intermediary Platform**

An entity offering a software-based platform to connect lawyers with interested consumers. An intermediary platform may offer additional legal practice support services such as timekeeping, billing, or video-conferencing.

**Alternative Legal Provider**

There are two options for alternative legal providers. An entity can offer services through one or both.

**Human Alternative Legal Provider (“HALP”)**

A non-lawyer person providing legal services considered the practice of law under [Utah Supreme Court Rule 14-802\(b\)\(1\)](#).

**Software Alternative Legal Provider (“SALP”)**

A software platform providing legal services considered the practice of law under [Utah Supreme Court Rule 14-802\(b\)\(1\)](#).

**With legal professional involvement**

The entity’s quality assurance process is:

**Directed by a Utah-licensed lawyer(s)**, whether employed, retained as an independent contractor, or affiliated in a volunteer capacity, who:

- oversees the development of the service method, such as by developing training materials, supervising education and training, developing scripts, algorithmic models, templates, and/or checklists, and
- plays an ongoing quality assurance role, by directing regular reviews of providers’ services for quality and accuracy.

**With minimal legal professional involvement**

A Utah-licensed lawyer or Utah-licensed legal professional provides guidance at the front end of the development of the Service Method but has no ongoing involvement or the legal professional's involvement with the entity's ALP quality assurance process occurs solely at the discretion of the entity or its ALPs; i.e., a lawyer who is available to answer questions when the ALP calls.

**Without legal professional involvement**

No Utah-licensed lawyer or Utah-licensed legal professional is involved in providing legal services.

## Sandbox Application Questions

Any false or misleading statements made by entities or their members in the application materials, whether discovered at the time or at any time afterward, will be independent grounds for [regulatory enforcement](#), including termination of authorization, and an aggravating factor in any enforcement proceeding based on other conduct.

Sections	Questions
<b>Entity Info, Disclosures, &amp; Structure</b>	<p>You will describe your entity structure, including:</p> <ul style="list-style-type: none"> <li>● ownership interests</li> <li>● management</li> <li>● who will report data to the Office</li> <li>● whether you will be working with other professionals</li> <li>● whether you will collect payment or sell consumer data</li> </ul> <p>You must list all individuals and entities that make up your entity’s ownership and management. You must disclose whether any individual with an ownership or management interest is a disbarred or suspended lawyer or has a felony criminal record. Each owner and manager must also submit to a background and credit check, certify basic information, and may be required to submit fingerprint cards at the discretion of the Court.</p>
<b>Proposed Services &amp; Innovation Requirement</b>	<p>The application asks who will provide your legal service offerings: lawyers / legal professionals, an intermediary platform, HALPs, or SALPs. What Legal Areas do you want to offer services in, and to what type of consumers?</p> <p>If you propose a SALP, what will your software do, and how? If you propose using HALPs, you will describe how they will be trained to ensure they competently serve your consumers.</p> <p>If your entity does not have a legal professional to direct the quality assessment process, you must identify the specific, limited service you want to offer to address a specific, identified legal need or bundle of related legal needs.</p> <p>You must explain how your services are “innovative” and how Sandbox authorization will allow your services to reach consumers currently underserved by the market. This could include reducing the cost of legal services, making legal services more accessible, or developing a new business model.</p>

Sections	Questions
<b>Waivers</b>	<p>To participate in the Sandbox, the Court waives Rule 5.4<sup>2</sup> and the rules governing the <a href="#">unauthorized practice of law</a> as needed and at its discretion.</p> <p>If you need to seek additional waivers of other <a href="#">Rules of Professional Conduct</a> to provide your anticipated services, the application lists common rules you may request waived. However, you may identify other unlisted rules for which you must also request a waiver.</p> <p>The Office considers any additional rule waivers requested by applicant entities. Utah lawyers remain subject to all rules of professional conduct not explicitly waived. Entities also remain subject to other applicable state and federal laws and any rules of another state or other governing body.</p>
<b>Risk Assessment</b>	<p>You will explain how a consumer might find, engage, and benefit from your proposed services and how they might be <a href="#">harmed</a>.</p> <p>The application will ask about your quality assurance process: how you make sure your services are safe for consumers, what the process is for your consumers to file a complaint, what your process will be to address any consumer concerns, and how you will improve your services considering concerns.</p> <p>You will describe how you will identify, track, and mitigate consumer risks in your proposed Service Method, including quality control measures, oversight, training, provider testing, etc.</p> <p>All entity managers and owners must adhere to the same fiduciary duties that lawyers owe their clients: loyalty, confidentiality, diligence, and candor. In addition, they must agree not to interfere with the lawyer’s professional judgment, which requires placing the client’s best interests above profits.</p>

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<sup>2</sup> [Utah Rule 13-5.4](#)



## Innovation Levels

In determining the Innovation Level of an entity’s application, the Office assumes that Utah-licensed lawyers and paralegal practitioners are competent to provide legal services and will do so only if they have “the legal knowledge, skills, thoroughness, and preparation reasonably necessary for the representation.” Utah R. Prof’l Cond. 1.1. Based on that assumption, an entity’s level of innovation, and potential risk, corresponds to the degree of licensed legal professional involvement—the less involvement, the more potential risk.

The Office has developed the following innovation levels based on entity structure and/or Service Method(s):

Alternative Business Structure	Innovation Level
Lawyers sharing profits with nonlawyers within the same entity (nonlawyer ownership or investment)	Low
Lawyer employed or managed by a nonlawyer	Low

Other Service Methods	Innovation Level
Lawyers sharing fees with nonlawyers, not within the same entity	Low
Intermediary platform	Low

Alternative Legal Provider	Innovation Level
HALP with Utah licensed lawyer overseeing service development & playing on-going quality assurance role	Moderate
SALP with Utah licensed lawyer overseeing service development & playing on-going quality assurance role	Moderate
HALP with minimal or no on-going involvement of a Utah licensed lawyer	High
SALP with minimal or no on-going involvement of a Utah licensed lawyer	High

While an ABS consists of lawyers and nonlawyers, lawyers typically perform all legal services in a traditional manner. Therefore, an ABS is considered low innovation regarding the provision of

legal services offered. Lawyers and other licensed legal professionals affiliated with any entity authorized by the Court, including an ABS, remain subject to the rules of professional conduct<sup>3</sup> unless an entity requests and is granted a specific waiver by the Court.

Traditionally, the “practice of law”<sup>4</sup> has been limited to lawyers and paralegals closely supervised by lawyers. The Sandbox enables non-traditional legal service providers, such as ALPs, to practice law.

A software platform providing simple legal document completion services to consumers, i.e., the software facilitates a consumer’s form completion by filling in the form with consumer-provided information, is not practicing law because it does not provide legal advice specific to consumer facts and applicable law. These platforms are plentiful outside the Sandbox regulatory structure and therefore do not need Sandbox authorization. However, any software expansion beyond simple form completion and legal information must be regulated by the Office. Software that uses guided questions that limit consumer options could be considered legal practice because it tells consumers what they “should do” and, therefore, should be regulated by the Office.

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<sup>3</sup> [Utah Rules of Professional Conduct](#)

<sup>4</sup> Practice of law is defined in [Rule 14-802](#) as offering legal advice, creating legal documents through the application of law to specific consumer supplied facts, or advocating on a consumer’s behalf in or out of an official hearing.

## III. SANDBOX APPLICATION REVIEW

### Office Review Process

The Sandbox application review process is iterative. The Office expects applicants to be responsive and engaged as it seeks to understand applicants' proposed services, potential consumer benefits and harms, and explain why the Office does or does not recommend any Service Method, Legal Area, or waiver for authorization.

The Office strives to avoid unnecessary repetition throughout its review process to make the application review, recommendations, and authorization process as efficient as possible. Office Recommendations and Authorization Orders refer to this manual for a full description of innovation assessments unless the proposed Service Method presents a unique and novel issue.

### Recommendation to the Court

After conducting the innovation assessment, the Office will draft an authorization recommendation for LSI Committee review, including:

- Innovation Level
- Legal services offered
- Service Method(s)
- Legal Area(s)
- Innovation Requirement met
- Waivers requested
- Any additional relevant information

The LSI Committee determines which Service Methods it will recommend for Court review and approval.

While your entity may be authorized for multiple Service Methods, you may not offer services through a method you are not authorized for.

*For example, if an entity is authorized as a "HALP with legal professional directed quality assurance process," that entity may not offer services through a SALP.*

If, after authorization, you would like to include a new Service Method or Legal Area, you must request additional assessment and authorization from the Office. There is no cost to amend your authorization.

## Court Review

The Court has complete discretion to review and assess any recommended entity regardless of the LSI Committee's recommendation.

The Office publishes all entities' Applications, Recommendations, and Authorization Orders on its [website](#). If you want to keep any portion of your application private, you must explain why the information qualifies for protection. Any confidential information granted protection will be redacted before these materials are released publicly.

## What happens if an entity is denied?

The LSI Committee may decline to recommend an application to the Court for authorization.

Reasons for denial include but are not limited to:

- Insufficient showing to meet innovation requirement
- Inability to report data as required by the Office
- Proposed entity or Service Method is not the "practice of law" (already permitted under the traditional rules) and therefore Sandbox authorization is not needed
- Suspended or disbarred lawyer owning more than 10% of entity
- Manager/Owner certification indicate a risk to consumers

If the LSI Committee does not recommend the Court authorize your proposed entity:

- The Office will send you a Denial of Recommendation stating the reason(s) for the denial
- You may request the Office reconsider by submitting a Request for Reconsideration within 30 days of the date of the denial. Late requests will not be considered.
- If the Office denies the reconsideration (by issuing a Denial of Reconsideration), you may appeal to the Court by submitting an Appeal of Denial within 30 days of the denial. On receipt of the appeal, the Office will present your appeal, including your entire application file, to the Court.

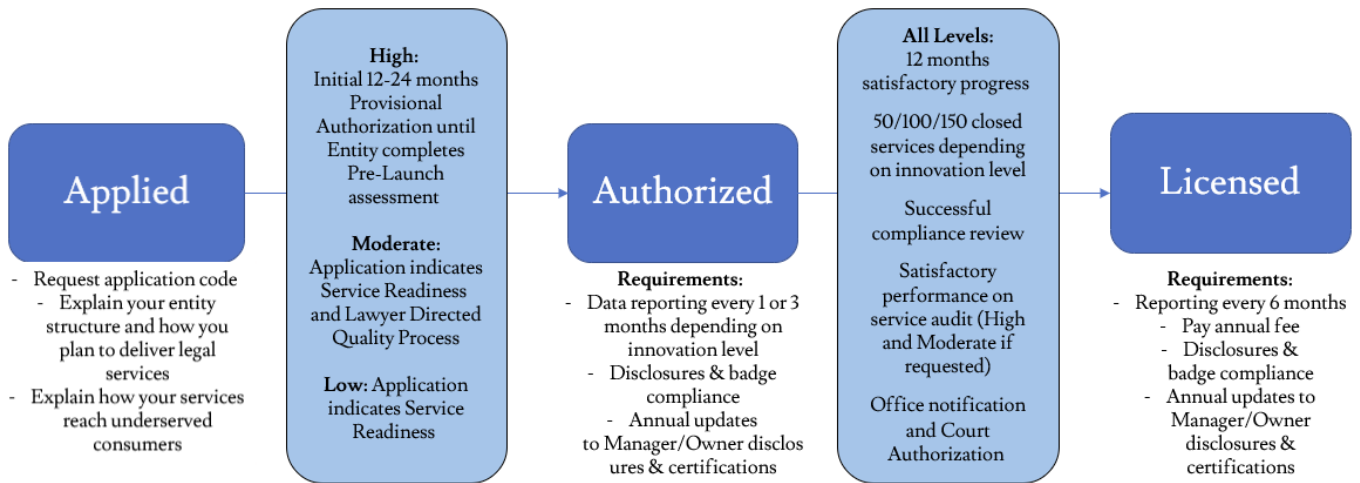
Even if the LSI Committee recommends authorization to the Court, the Court may deny authorization. In that case, the Court will issue an order denying authorization and note why the application was denied. The entity may appeal directly to the Court within 30 days.



**If your Sandbox application is denied at any stage, you may reapply for the Sandbox once you have remedied the reason for the denial.**

# IV. PARTICIPATING IN THE SANDBOX

## Sandbox Timeline Quick Reference



## Authorization

The Court initially authorizes most entities for the duration of the Sandbox. You should be ready to implement your services to participate in the Sandbox. The Sandbox is a pilot project designed to allow you to test your entity structure and Service Methods.

While the Office expects most authorized entities will be ready to launch within six to nine months, it recognizes that securing capital, software development, and developing HALP curricula take significant investment and time. For this reason, the Court authorizes entities into Provisional and full Authorization based on the entities’ readiness to launch the proposed Service Method.

*For example: an entity will likely be ready to launch its ABS immediately and, therefore, would be authorized as an ABS, but may need more time to develop its ALP Service Method(s) and would be Provisionally Authorized for its ALP services.*

Once the Court issues your entity an Authorization Order, the Office will notify you and provide you with the following materials:

- Court Order of Authorization
- Office Recommendation
- Office Manual link
- Data reporting system access

You must schedule an authorization meeting with the Office once you have received your authorization materials. You are not authorized to offer services to the public until you have attended this meeting. All managers and owners of your entity must also complete the 1 hour ethics training before you can launch services.

## Launch

Once authorized, you must notify the Office of your anticipated **Launch Date** for each authorized Legal Area and Service Method. At launch, you must collect and report data as required by the Office and comply with the [badge and disclosure requirements](#) below.



### Launch Date

The date on which an entity is prepared to offer the legal services that the Court has authorized, as described in the entity's Authorization Order.

### Pending Period

The period between the date the Court issues an entity's Authorization Order and that entity's launch date. During this period, the entity is not permitted to offer the legal services granted in the Sandbox Authorization Order to the public and is not required to report data to the Office.

If, after 180 days from your authorization date, you have not implemented your approved services or cannot sufficiently provide the required data to the Office by your first reporting period, the Office will recommend the Court issue an Amended Order moving your authorization to Provisional. If the Court issues the amendment, the Office will notify you that your authorization to provide legal service is immediately paused pending a service readiness review.

## Provisional Authorization

The Office will recommend, and the Court will grant, a 12-24 month Provisional Authorization, instead of full authorization for the following:

1. entities that need authorization to raise funding, to create their entity, or to develop their Service Method(s); and

## 2. High Innovation entities.

For an entity, which is developing its business model and Service Methods to be authorized for full Sandbox participation, it will need to satisfy an Office review to determine that it is ready to implement its services, specifically that the entity has:

- a. secured any funding needed,
- b. the entity team in place, and
- c. a working Service Method or prototype developed.

## Pre-Launch Service Assessment

For High Innovation entities to advance to full Sandbox authorization, they must perform adequately in a pre-launch service assessment conducted by the Office. The assessment is designed to test the skills of the entity's ALPs by mimicking real legal scenarios. The scenarios will be conducted by legal professionals in the Legal Area(s) for which the entity seeks authorization. Each Legal Area, with its ancillary areas, will be individually assessed against an objective standard of review. The entity must pay \$1,000 for the assessment cost for each Legal Area but may apply for a hardship waiver.



**Provisionally Authorized entities are NOT authorized to provide legal services to the public until:**

- 1) they have satisfied the criteria described above and**
- 2) the Court has issued an Authorization Order.**

An entity may remain in the Provisional Tier for up to 24 months. After 24 months, the Court will terminate provisionally authorized entities that have not successfully completed the pre-launch assessment for failure to launch. The entity is welcome to reapply to the Sandbox at a later date. Similarly, if an entity seeks and is granted Provisional Authorization but cannot bring its entity concept to development, it may request to withdraw and reapply once its services plan is closer to implementation.

## Licensure

The LSI Committee determines when an entity has satisfied the minimum criteria to be recommended to the Court for an annual license. Any license granted will only apply for the remaining duration of the Sandbox pilot project. To be eligible, an entity must have:

- 12 months of satisfactory progress in the Sandbox (allows for minor data issues),
- the requisite number of closed services for its innovation level (50/100/150),
- pass a successful compliance review performed by the Office, and
- satisfactory performance at an audit (required for high innovation entities and could be requested for moderate innovation entities)

Licensing an entity reflects the Office’s determination that the entity’s service structure and method(s) do not present a significant risk of consumer harm and therefore less intensive oversight is appropriate. Issuance of an annual license is conditioned on the recommendation of the LSI Committee and subject to the discretion of the Court. Licensure does not grant an entity a permanent license to practice law; rather the entity remains subject to Office regulation for the duration of the Sandbox pilot project.



**Many entities in the Sandbox have multiple aspects to their authorization.**

*For example, several entities are authorized for nonlawyer investment and ownership (ABS) and legal services provided by ALPs.*

These entities will likely be ready to be licensed for the ABS aspect of their entity before their higher innovation methods. The Court may license an entity for one Service Method but not another. In this case, the elevated reporting requirements that apply to ALP services remain in place until that particular Service Method has satisfied the minimum requirements and the Office determines that it is also ready to be licensed.

The Office will notify the entity of the LSI Committee’s recommendation to the Court for licensure. If the Court orders the entity to be granted an annual license, the Office will notify the entity of its modified reporting requirements and the applicable licensing fees. These requirements will be enforced for the remaining duration of the seven-year Sandbox pilot.

The Office can determine whether an entity will remain “Authorized” in the Sandbox despite satisfying the minimum criteria. Reasons for requiring an entity to remain include:

- a record of potential consumer harm
- historical poor compliance with regulatory requirements
- record of unresponsiveness or lack of engagement

If you believe your entity is eligible for a license, you may request the Office conduct an eligibility review. If the LSI Committee denies licensure, you may request a reconsideration and, if denied, appeal to the Court.

An entity’s license will be renewed annually for the duration of the Sandbox pilot and be conditioned on compliance with all regulatory requirements, including annual disclosures and reporting requirements, and with payment of the annual license fee as outlined below.





**Licensed Entities remain in the Sandbox and are subject to the Court's enforcement power as administered by the Office and LSI Committee, including suspension or termination of authorization for lack of compliance or evidence of consumer harm.**

## Licensing Fees



### **Flat Fee**

All licensed entities must pay an annual fee of \$250.

### **Revenue Fee**

All licensed entities who collect payment for services must pay .5% of their revenue each fiscal year. Revenue is the total income or gross revenue generated by the sale of services related to the entity's total authorized Service Method(s) for the prior fiscal year. Entities must pay by the last business day in July. Entities that fail to pay fees on time will incur late fees.

This is gross revenue, not a net gain, net revenue, or profit. Annual licensing statements will be distributed after the close of the fiscal year.

### **Hardship Waiver**

An entity may request a hardship waiver by providing the Office a written description of the hardship and any supplemental financial information necessary to determine whether to grant the request.

If an entity has multiple Service Methods and seeks a license for a subset of methods, the revenue calculation will be based on all services offered under the terms of the license. Should the entity seek, and the Court authorize, additional Service Methods under the license, then the entity service revenue will be summed and appropriately prorated.

## Renewal Fee

If a licensed entity decides to cease offering services that fall under the regulatory authority of the Office, it must withdraw, or it will remain responsible for the annual flat fee. An entity that withdraws will be invoiced for the revenue fee on June 30th of the last fiscal year it provided Sandbox services. It will not receive any refund of fees already paid.

However, if the entity wishes to re-engage in services required to be regulated by the Office, it will be charged the flat fee to renew its license regardless of the time that has elapsed since ceasing the

services or the original date of the license. The Court can grant the re-license, deny the license, and/or require the entity to re-apply to the Sandbox.

## Disclosure Requirements

### Required for All Authorized Entities

All authorized entities offering legal services (not Provisionally Authorized) are required to display the Office “Authorized Legal Services Entity” badge at brick-and-mortar offices, on its website(s), in advertising materials, and consumer engagement contracts. The badge must be displayed immediately upon authorization. The badge facilitates consumer knowledge and confidence, provides information to consumers and the public, and provides a link to file an Office complaint.

The Badge must:

- Be readable in the primary language of the entity’s consumers
- Be digitally displayed in conformity with the following:
  - a static image, minimum size 270 pixels x 298 pixels
  - be linked to the Office complaint page, either in the image or in a hyperlink below
  - be located on the entity homepage and any pages/ads offering Sandbox legal services
  - be easy to find by someone browsing the website
  - cannot be embedded with logos of other involved entities



**An entity's failure to display the badge as required is considered evidence of noncompliance and consumer harm, subject to [enforcement action](#). Any entity or person displaying the badge without being an entity authorized by the Court may be referred to either the Utah State Bar or the Utah Division of Consumer Protection.**



For more information or to file a complaint, please visit [utahinnovationoffice.org](http://utahinnovationoffice.org)

### Required as Applicable

All non-lawyer ownership/management entities (ABS) must use the Nonlawyer Ownership Disclosure. All entities providing services through an ALP must use the Alternative Legal Provider Disclosure. If an entity is authorized for both ABS and ALP services, it must display both disclosures. Entities must communicate these disclosures to each consumer before providing legal services. For example, an entity should include the disclosure in its terms of service or engagement letter. Upon full Sandbox authorization, entities must include these disclosures on their website and advertising materials. These disclosures must be verbatim.

Entities not providing these disclosures will be considered non-compliant and subject to Office enforcement action for consumer harm.

Nonlawyer Ownership Disclosure
<p>This service is provided by an entity that is not a traditional legal provider. This entity is owned/managed (fully or partially) by nonlawyers who are not subject to the same rules as lawyers.</p> <p>For more information, click here.</p>

Alternative Legal Provider Disclosure
<p>This service is provided by an Alternative Legal Provider (ALP) who is not a lawyer. ALPs are not subject to the same rules as lawyers.</p> <p>For more information, click here.</p>

### Required for All Licensed Entities

A licensed entity must continue to display the above disclosures as applicable. In addition, it may display the following badge:



For more information or to file a complaint,  
please visit [utahinnovationoffice.org](http://utahinnovationoffice.org)

## Changing Authorization

An entity authorized in the Sandbox may seek to change the scope of its authorization, for example, changing Service Methods or adding Legal Areas. At any time, the Office may also recommend modification of an entity's Authorization Order to the Court for any reason.

If the entity's requested change does not alter the Innovation Level of the entity, it must notify the Office of the anticipated change, and the Office will present the change to the Court for an Amended Order. If the change increases the Innovation Level of the entity, the entity must request additional assessment and authorization from the Office by submitting a Request to Amend Authorization. The Request will be reviewed and submitted to the Court with an Amended Recommendation and Order for Court consideration and approval.

## V. SANDBOX DATA REPORTING

Entities authorized to offer services in the Sandbox (not Provisionally Authorized) must comply with regular data reporting requirements. An entity's Innovation Level determines its frequency of data reporting. Entities' continued authorization to offer services in the Sandbox is contingent upon compliance with the applicable data reporting requirements as prescribed by the Office.

An entity's permission to offer services and duty to begin reporting data starts at its launch date. However, if an entity launches in one Legal Area or one Service Method but not others authorized, it must begin reporting on the services launched. For example, an entity may launch as an ABS while still developing its ALP services.

Any false or misleading statements made by entities or their members in interactions with the Office, including reporting of data, whether discovered at the time or at any time afterward, will be independent grounds for [regulatory enforcement](#), including termination of authorization and an aggravating factor in any enforcement proceeding based on other conduct.

The Office reviews and analyzes entity data and submits an "Activity Report" to the LSI Committee and the Court. This report identifies areas of actualized risk of consumer harm associated with Sandbox provision of legal services within and across authorized entities. While this detailed report remains protected, a public version of the report, using aggregated data, is available monthly on the Office website.

The data reported to the Office are classified as "protected records" under the [Utah Code of Judicial Administration \(UCJA\) Rule 4-202.02](#). This data will not be released publicly, although the Office may share reported data with external researchers who enter into research agreements with the Court.

However, applications, entity recommendations, and Authorization Orders are considered public records under [UCJA 4-202.02](#) and will be made public on the Office website. Any personal identifying information other than the names of managers and owners will be redacted, along with any other protected information identified by the entity. Individuals or organizations seeking access to any other Office records must complete a [court records request](#) and pay the costs of compiling and providing those records.

## Data Submissions

### Data Reporting Training and Protocols

After an entity's authorization call, including data reporting training, the Office will provide entities with either a .xlsx template or access to the data system.

- The data system contains the specific data fields listed below with corresponding operational and technical definitions.
- Entities will report data per legal service (unbundled from a case, e.g., legal advice, legal communication, legal pleading, negotiation, etc.)
- Entities must use the data codes supplied by the Office to describe the legal services provided. Entities cannot provide their own descriptions of the services provided or otherwise change the data fields and codes. Failure to comply with the coding requirements is considered an indicator of consumer harm and could result in suspension or termination of authorization.

The Office will strive to work with authorized entities who wish to pay to configure their existing databases to streamline data entry and monthly reporting downloads.

### Reporting Deadlines

Entity data reports are due no later than the 10th of the applicable month. Entities that fail to report by the 10th of the month will be considered out of compliance and are subject to [enforcement action](#).

If an entity is authorized in the last week of a month, it will report the next complete month.

*For example, if the Authorization Order is signed June 23rd, the first monthly reporting period for a High Innovation entity would be August 1st through 10th; and the first reporting period for a Low Innovation entity would be October 1st through 10th.*

Entity data reporting includes the following fields and is subject to change at any time.

### Data Fields Entities Report on New Services



#### Entity Number

Your assigned entity number provided by the Office at authorization.

#### Consumer ID

A de-identified alphanumeric field that you assign to each consumer. This ID remains attached to a consumer and does not change over time.



### **Service ID**

A unique, de-identified alphanumeric field or an ordered increasing number sequence (e.g., 1, 2, 3, etc.) you assign to each distinct service provided to resolve a distinct legal issue of a consumer. This ID remains attached to a unique instance of service.

### **Service Sought**

After reasonable legal intake/triage, the service that the consumer sought to address a legal issue.

### **Legal Area**

The category of law the service assists in, i.e., family, housing, immigration, etc. This will be limited by the legal areas you are authorized to provide services.

### **Legal Issue**

The customer's legal issue is identified within a Legal Area.

### **Start Date**

The date on which the legal service is initiated.

## **Data Fields Entities Report on All Services Every Reporting Period**



### **Consumer Complaint**

Consumer complaints related to the service provided to address a legal issue.

### **Service Received**

The current status (open, withdrawn, lost to follow-up, and closed) of the legal service to address the legal issue.

## **Data Fields Entities Report on at the Service End**



### **End Date**

The date on which the legal service provided was completed (closed, entity abandoned, or was lost to follow-up).

### **Service Received**

The most applicable legal service the consumer receives to resolve the legal issue (e.g., advice, document completion, legal communication, etc.).

**Service Method: Lawyer/ Lawyer Employee**

The method that the legal service was delivered within an ABS.

**Service Method: Forms or Document Completion via Tech**

The Service Method provided to address the legal issue when software, not practicing law, was used.

**Service Method: Intermediary Platform w/out Legal Advice**

The Service Method provided to address the legal issue within intermediary platforms.

**Service Method: SALP w/ Legal Professional QA**

The Service Method provided to address the legal issue using SALPs with legal professionals directing the quality assessment process.

**Service Method: HALP w/ Legal Professional QA**

The Service Method provided to address the legal issue using HALPs with legal professionals directing the quality assessment process.

**Service Method: SALP w/out Legal Professional QA**

The Service Method provided to address the legal issue using SALPs without legal professionals directing the quality assessment process.

**Service Method: HALP w/out Legal Professional QA**

The Service Method provided to address the legal issue using HALPs without legal professionals directing the quality assessment process.

**Amount Paid**

The amount the consumer paid for the legal service received.

**Legal Outcome**

The outcome of the legal service received.

**Service Received**

The current status (open, withdrawn, lost to follow-up, and closed) of the legal service to address the legal issue.

**Consumer Survey Provided at the End of a Service**

To gather additional data on consumer benefits and harms, entities must provide consumers with a service survey. The invitation to complete the survey should explain that the legal services provided



were made possible by a Utah Supreme Court pilot project and that their feedback is important to help the Court assess whether the project is worthwhile.

The survey results will be assessed by the Office and shared with the LSI Committee and the Court. The aggregate data will be included in the publicly available portion of the monthly Office Activity Report.

## Provisional Authorization Reporting

Entities authorized into the Provisional Tier are not authorized to provide legal services and therefore do not submit data reports to the Office.

## Authorized Reporting

All entities are required to provide annual disclosures. New managers and owners must sign the manager/owner certification and be subjected to the required background and credit checks. The Office requires:

- Low Innovation entities to report every three months
- Moderate Innovation entities to report every month
- High Innovation entities to report every month

## Licensed Reporting

The Office requires Licensed entities to report every six months. The Office may request complaint data more often as needed for consumer protection. Additionally, the entity annually must submit updated disclosures of management and ownership interests and provide a manager/owner certification as well as the necessary materials to conduct background and credit checks for each new manager or owner. Entities remain responsible for disclosing to the Office and consumers any intent to sell collected data.

## Audits

High Innovation entities must complete an audit after closing 20-30 service files. Moderate Innovation entities may be required to complete an audit at the discretion of the Court for reasons such as consumer complaints or reporting irregularities. The Court may also request a second audit or that a Licensed entity undergo an audit for similar reasons. The entity will be responsible for paying \$2,000 for the cost of the audit, subject to a request for a hardship waiver.

## Audits

**Who?** High Innovation entities and Moderate Innovation entities at the discretion of the Office or Court

**Why?** To test for the legal quality and accuracy of services provided by ALPs

**When?** Post-launch of moderate or high innovation services

- Audit(s): initiated after 20-30 services close
  - The Office requests 20 representative service files for audit
  - Entity collects information about the consumer’s wishes and actions taken in relation to their wishes
  - Entity is responsible for redacting service files prior to providing them to the Office for the audit
  - Office reviews the files to test the redaction method and wishes analysis

**How?** The Office chooses auditors from its Audit Panel of Utah lawyers who are proficient in the Legal Area of the entity’s services and are trained in using the audit protocol developed by the Office.

The entity compensates lawyer members of the Audit Panel for the audit services (\$1,000 per auditor).

Each service file is reviewed by two independent members of the Audit Panel.

Auditors are not informed of the identity of the entity for which they are conducting the audit and are required to maintain the confidentiality of the audit protocol and data.

**Use** The audit data will be incorporated into the overall actualized risk assessment conducted by the Office. The audit protocols and data are classified as “protected records” under [Utah Code of Judicial Administration \(UCJA\) Rule 4-202.02](#).

## VI. ENFORCEMENT

The Office's regulatory framework relies on evidence of consumer harm. This approach is risk-based, proportionate, and targeted in any enforcement action it takes. The Office analyzes various sources to determine whether and to what extent consumer harm occurs in each entity's Sandbox services. The Office also considers an entity that does not meet Sandbox participation requirements as evidence of consumer harm.

### Entity Sandbox participation requirements include:

- submitting data reports when due,
- reporting all the required data fields, and
- correcting data report coding when requested by the Office.

<p><b>The Office may take enforcement action against an entity when:</b></p>	<p>The entity does not meet any Sandbox participation requirements outlined in the Innovation Office Manual or requested by the Office</p>
	<p>The entity does not cooperate effectively with the Office</p>
	<p>The entity makes a misrepresentation to the Office</p>

### What evidence does the Office base enforcement action on?

The Office may base enforcement action on:

- entity data reports
- consumer complaints
- reports from media or third parties
- compliance reviews, or
- additional supporting information

The Office maintains discretion in employing its enforcement steps including the imposition of fines for non-compliance. In cases of “suspected” or “probable” serious harm, the Office does not need to complete each stage before suspending an entity or recommending termination to the Court.

The following chart outlines the Office's enforcement steps.

<p><b>GREEN</b> <i>Satisfactory</i></p>	<p><b>Qualification(s):</b> the entity's data is on time and supports little or no evidence of consumer harm.</p> <p><b>Sandbox Service Restrictions:</b> None</p>
<p><b>BLUE</b> <i>Watch</i></p>	<p><b>Qualification(s):</b> Minor acute issues related to data non-compliance activity or other qualifying watch activity listed below.</p> <p><b>Sandbox Service Restrictions:</b> None - Entities in watch status can still deliver Sandbox-authorized legal services</p> <p><b>Resolution(s):</b> The entity adequately responds to the identified minor issues in a timely manner.</p> <p>Blue Data Non-Compliance Activity includes:</p> <ul style="list-style-type: none"> <li>● missing a data reporting deadline but submitting data as requested within 3 business days of the deadline</li> <li>● small errors in utilizing the data reporting method prescribed by the Office for up to two reporting periods</li> <li>● inadequate use of Entity Badge for less than 30 days after notification</li> <li>● unresponsiveness or inadequate response to essential Office communications for more than 15 days</li> </ul> <p>Other Blue Qualifying Activity includes <u>suspected</u>:</p> <ul style="list-style-type: none"> <li>● service provision outside of authorization</li> <li>● misrepresentation of services</li> <li>● incomplete or inaccurate entity disclosures at application</li> <li>● failure to update entity disclosures within 30 days of change</li> <li>● consumer harms</li> <li>● undisclosed ownership or lawyer disbarment</li> <li>● inappropriately disclosing confidential consumer information</li> <li>● other noncompliance issues specified by the Office</li> </ul>
<p><b>YELLOW</b> <i>Warning</i></p>	<p><b>Qualification(s):</b> Chronic or multiple minor issues or moderate acute issues related to data non-compliance activity or other qualifying watch activity listed below.</p>

**Sandbox Service Restrictions:** None - Entities in Yellow status can still deliver Sandbox-authorized legal services.

**Resolution(s):** The entity adequately responds to the identified issues in a timely manner.

Yellow Data Non-Compliance Activity includes:

- missing a data reporting deadline but submitting data as requested within 14 business days of the deadline
- small errors utilizing data reporting coding method required by the Office for three or more reporting periods
- substantial errors in utilizing the data reporting method prescribed by the Office for up to two reporting periods
- inadequate use of the Entity Badge for 30 days or more after notification
- missing the Entity Badge for less than 30 days
- unresponsiveness or inadequate response to essential Office communications for more than 30 days
- combinations of minor issues described under watch status.

Other Yellow Qualifying Activity includes probable:

- service provision outside of authorization
- misrepresentation of services
- incomplete or inaccurate entity disclosures at application
- failure to update entity disclosures within 30 days of change
- consumer harms
- undisclosed ownership or lawyer disbarment
- inappropriately disclosing confidential consumer information
- other noncompliance issues specified by the Office

## **ORANGE** *Suspended*

**Qualification(s):** Chronic or multiple minor or moderate issues or severe acute issues related to data non-compliance or other qualifying watch activities listed below.

**Sandbox Service Restrictions:** Suspension of Sandbox Authorization until Resolution is complete. The Office may publicly report an entity's Suspended status.

	<p><b>Resolution(s):</b> The entity adequately responds to the identified issues in a timely manner.</p> <p>Orange Data Non-Compliance Activity includes:</p> <ul style="list-style-type: none"> <li>• missing a data reporting deadline by 15 or more business days</li> <li>• substantial errors in utilizing the data reporting method prescribed by the Office for more than two reporting periods</li> <li>• missing Entity Badge for more than 30 days</li> <li>• unresponsiveness or inadequate response to essential Office communications for more than 60 days</li> <li>• combinations of minor or moderate issues described under watch and warning statuses</li> </ul> <p>Other Orange Qualifying Activity includes <u>confirmed</u>:</p> <ul style="list-style-type: none"> <li>• service provision outside of authorization</li> <li>• misrepresentation of services</li> <li>• incomplete or inaccurate entity disclosures at application</li> <li>• failure to update entity disclosures within 30 days of change</li> <li>• consumer harms</li> <li>• undisclosed ownership or lawyer disbarment</li> <li>• inappropriately disclosing confidential consumer information</li> <li>• other Office specified noncompliance issues specified</li> </ul>
<p><b>RED</b> <i>Terminated</i></p>	<p><b>Qualification(s):</b> Chronic or multiple minor or moderate issues or severe acute issues.</p> <p><b>Sandbox Service Restrictions:</b> Termination from the Sandbox. The Office will publicly report an entity's Terminated status.</p> <p><b>Resolution(s):</b> The entity is removed from authorization and must cease all legal services.</p>

## How does the Office investigate complaints?

Upon receipt of any complaint, evidence of data noncompliance, or evidence of “suspected” activity, the Office moves the entity to Watch status. During the initial three to five day review, the Office makes a preliminary determination whether the complaint falls within the regulated consumer harms and if the activity is “probable.” If the activity or harm is probable, the entity is moved to Warning status, and the Office notifies the entity of the status change and requests an explanation for the complaint or compliance issue.

In Warning status, the entity will be allowed to rectify the harm or compliance issue, and the Office will conduct a further investigation. The Office will inform the LSI Committee, at its next scheduled meeting, of preliminary findings such as assessment of harm, enforcement status, action taken by the entity, recommended next steps in investigation and/or enforcement, including escalation if the entity does not take appropriate action within a reasonable time.

If the harm or non-compliance activity is “confirmed,” the Office will immediately notify the LSI Committee of its findings and enforcement recommendation, including suspension. A suspension may disqualify the managers and owners from submitting future Sandbox applications.

## What happens if an entity is suspended or terminated?

If the Office recommends the entity be suspended, and the LSI Committee approves the recommendation, the Office will send a Notice of Suspension laying out any requirements, such as:

- Immediately stop taking on new clients
- Remove the Authorization badge from the entity’s website and other materials
- Immediately notify all lawyers involved with the entity of suspension

And if the suspension is in anticipation of an Order of Termination:

- By 30 days after notice of suspension, cease all provision of legal services authorized by the Authorization Order
- Within the 30 days between notice of suspension and suspended services, notify all existing clients of suspension, complete services initiated, and/or refer clients to other legal providers.
- Within 40 days of the effective date of suspension, send an affidavit to the Office certifying they have complied with these requirements.

If the Office recommends the entity be terminated, the LSI Committee will present to the Court its recommendation for an Order terminating the entity's authorization, including a summary of its investigation.

## Can an entity appeal a suspension or termination?

### Appeal

Entities may appeal a suspension or termination by submitting a Request for Reconsideration. The entity has 30 days from the date of the notice of suspension or date of termination to submit the Request for Reconsideration. Requests submitted past the 30-day window will not be considered.

If the Office denies the reconsideration (by issuing a Denial of Reconsideration), the entity may appeal to the Court. The entity has 30 days from the date of the denial of reconsideration to submit an Appeal of Suspension/Termination. On receipt of the Appeal, the Office will present the applicant’s appeal, including the entire file, to the Court.

If the Court denies an entity's appeal, an entity may apply to be reinstated after the requisite time has passed.

## Reinstatement

An entity that has been terminated or suspended may apply to be reinstated as follows:

If an entity is suspended, it may apply for reinstatement at any time by filing an affidavit for reinstatement explaining how it has fully complied with the requirements in the notice of suspension, including paying any required fines and costs of disciplinary action. If the suspension was based on consumer harm or failure to disclose the requested information, the entity must provide a concise statement of facts claimed to support reinstatement. An entity must show that the basis for suspension has been overcome. The entity will also be required to update all disclosures.

If the Court terminates an entity, it may apply for reinstatement after a period of three years, subject to the requirements of any new applicant, including reinstatement fees, application assessment, and disciplinary review. A terminated entity must be able to demonstrate it has addressed the problems in its Service Method(s) that led to the prior consumer harm and termination.

## How does the Office report entity status?

The Office communicates the entity's status directly to the entity. An entity may ask for a review of a status change.

The Office's monthly Office Activity Report reports all entity statuses to the Court. Suspended status may be communicated publicly. An Order of Termination will be public on the Office website.

## VII. SANDBOX WITHDRAWAL

An entity may decide to withdraw from the Sandbox. Withdrawal may be necessary if an entity stops offering the services for which it sought entry into the Sandbox. Withdrawal will terminate the entity's authorization to offer all legal services. An entity may request a withdrawal by submitting a Request to Withdraw.

The Office will submit a proposed order to the Court terminating the entity's authorization.



## VIII. SANDBOX EXIT

The Sandbox is a seven-year pilot project. The Court will not authorize any non-traditional legal services to operate outside the Sandbox unless and until the Court determines that the Sandbox has produced sufficient evidence to support such action. In particular, the Court will assess whether sufficient evidence has been produced to ensure that Utah consumers are not exposed to more harm from poor legal services than they would have been without the services provided by Sandbox entities.

If the Court determines it has sufficient evidence to consider exit, entities may apply to exit the Sandbox upon a showing of satisfactory participation in the Sandbox, including as a licensed entity. The Office will conduct a compliance review and determine if the entity has performed satisfactorily, i.e., there is no material consumer harm and strong compliance with all reporting and other regulatory requirements. The decision to recommend exit will be at the discretion of the LSI Committee. Authorization of Sandbox Exit is at the ultimate discretion of the Court.

To initiate the process of exiting the Sandbox, an entity must complete an Application to Exit the Sandbox. The Office will review that application, the entity's history of reported data, and compliance and prepare a Recommendation on the Application to Exit the Sandbox for LSI Committee review. If the LSI Committee recommends exit, it will present that Recommendation, the entity's historical data, and compliance record to the Court.

If the LSI Committee denies the Application to Exit the Sandbox, the denial keeps the entity in the Sandbox. The Office will issue a Denial of Application to Exit the Sandbox that will include the reasons for the denial and a timeline for which the entity must remain in the Sandbox before it may resubmit its Application to Exit the Sandbox (i.e., three additional months in Satisfactory status). Reasons for denial may include (list is not exclusive and may be expanded):

- Substantial record of consumer harm
- Poor record of compliance with Office requirements

Entities denied exit may appeal the denial by submitting a Request for Reconsideration. The entity has 30 days from the date of the denial to submit the Request for Reconsideration. Requests submitted past the 30-day window will not be considered.

If the Office denies the reconsideration, the entity may appeal to the Court. The entity has 30 days from the date of the denial of reconsideration to submit an Appeal of Denial. Upon receipt of the Appeal of Denial, the Office will present the entity's appeal, including all relevant data, to the Court at the next court conference.

The Court retains complete discretion to approve or deny the entity's Application to Exit the Sandbox. Denial by the Court will return the entity to the Sandbox. The entity may reapply to exit at a later date.

## **Exited Licensed Legal Service Entity**

Entities which have exited the Sandbox remain under the regulatory authority of the Office and LSI Committee unless that authority is delegated to the Utah State Bar by the Court. The entities' scope of authorization remains controlled by the License Order. Entities must submit annual reports on consumer complaints and updated annual financial and controlling ownership disclosures. Entities will remain subject to the above license fees.

If an entity, upon exit, decides to cease offering authorized legal services that fall under the regulatory authority of the Office, it will not be responsible for fees in subsequent years if it relinquishes its license and informs the Office in writing of its desire to cease authorized services. It will not receive any refund of fees already paid and will be charged revenue fees for any services performed in the prior fiscal year.

However, if the entity wishes to re-engage in services required to be regulated by the Office, it will be charged the above fees on the reauthorization date regardless of the time that has elapsed since ceasing the services or the original date of the entity's exit. A new entity license will be required.

# APPENDIX: GLOSSARY

## **Consumer**

The client, or customer, of your legal services<sup>5</sup>.

## **Entity**

A law firm, business, organization, or individual who intends to form an entity that applies or is authorized to participate in the Sandbox. The Office only authorizes entities to participate.

## **Fiduciary Duty**

The duty one person owes to another to put their interests above those of the fiduciary (entity) or the entity's profits. Fiduciary duty includes:

**Loyalty:** the duty of loyalty means acting in the best interest of the consumer at all times, putting their well-being first and foremost, and any member of the entity excusing themselves from taking actions when there's a conflict of interest with the consumer's interest.

**Confidentiality:** the duty of confidentiality means managers and owners of the entity must maintain the confidentiality of all information relating to the consumer and not use any form of it, whether written or spoken, for their personal gain.

**Diligence:** the duty of diligence means the entity must thoroughly examine and present issues and opportunities to protect the interest and/or property of the consumer.

**Candor:** the duty of candor requires managers and owners to act with "complete candor," such as disclosing "all of the facts and circumstances" relevant to a consumer's or shareholder's decision.

## **Flat Fee**

All licensed entities must pay an annual fee of \$250.

## **Hardship Waiver**

An entity may request a hardship waiver by providing the Office a written description of the hardship and any supplemental financial information necessary to determine whether to grant the request.

## **Regulated Consumer Harms**

**Consumer achieves an inaccurate or inappropriate legal result**

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<sup>5</sup> For some Service Methods, an entity may have more than one consumer, i.e., an intermediary platform that connects attorneys and consumers would consider both the attorney and consumer to be the consumer of its services. Whereas, an ALP providing services to individuals or small businesses would consider the receiver of the services the consumer.

The provided legal remedy does not address the legal problem identified by the consumer.

**Consumer fails to exercise legal rights through ignorance or bad advice**

The consumer identifies a certain legal problem but fails to exercise its legal rights because the entity provides an inapplicable remedy, gives bad advice, or doesn't understand the legal problem adequately enough to address it.

**Consumer purchases an unnecessary or inappropriate legal service**

The the entity provides a predatory or wholly unnecessary service to obtain the requested legal remedy.

**Launch Date**

The date on which an entity is prepared to offer the legal services that the Court has authorized, as described in the entity's Authorization Order.

**Legal Area**

The Legal Area in which the entity provides legal services. This can be a key Legal Area - the area of law in which the entity is specifically authorized to provide services or an ancillary Legal Area that an entity encounters when providing services in their key Legal Area. The Office breaks Legal Areas into the following categories:

- Business, Corporate, or Commercial
- Civil & Disability Rights
- Consumer
- Criminal
- Expungement
- Domestic or Intimate Partner Violence
- Education
- Elder
- Employment & Unemployment
- Environmental & Land Use
- Family & Marriage
- Healthcare
- Immigration
- Intellectual Property
- Landlord/ Tenant
- Municipal
- Native American/ Tribal
- Personal Injury
- Public Benefits
- Real Estate
- Tax
- Traffic
- Wills/ Estates
- Workplace Safety

**Managers**

All persons and entities who wholly or partially direct the management or policies of the entity and/or the direct provision of legal services to consumers, whether through ownership of securities, by contract, or otherwise, including a mentor who manages the person providing the legal services. Also called "controlling persons."

## **The Office’s Regulatory Objective**

To ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.

### **Accessibility**

How easily a consumer can reach the provider’s services. Education/knowledge is a precursor to accessibility and includes helping consumers identify their legal problems, legal rights, or available services. Accessibility also includes anything that makes getting the services easier, such as location at community-based organizations consumers already frequent, disability accessible, online and by phone, 24 hours a day, accessible during a crisis, in plain English as well as other foreign languages, through a simple easy to use software platform, price point set for targeted consumers, etc.

### **Well-Developed**

Legal services that reach the target consumer, are easy to use, and result in a legal outcome. Well-developed services will likely require market diversification in promotion and delivery.

### **High-Quality**

Satisfactory or above as opposed to low-quality services.

### **Innovative**

An innovative legal service is any new idea, concept, product, or service in the legal marketplace.

### **Affordable**

Market-supported cost, not necessarily a lower cost than attorneys. If there is no product market fit, i.e., consumers do not purchase the service, it is not valued at the stated price point and is therefore not “affordable” to consumers (supply did not meet demand). Understanding that some people will pay more than they can “afford” to right a wrong, defend their position, or get help with a legal emergency, even if it means going into debt. While others who can likely “afford” legal services may choose to use an online template without legal advice because they believe it will meet their legal need; a cost-benefit analysis renders the online option more attractive.

### **Competitive**

Increasing the number of available services creates a more competitive legal market. These innovative services, in theory, create competition among new entrants and incumbents and force them to become more productive and efficient. Like most markets, an increase in supply will require providers to reduce costs and increase quality to continue to provide services.

## **Owners**

All persons and entities who wholly or partially (10% or more) finance the business (i.e., the services) of the entity. Also called “financing persons.”

### **Pending Period**

The period between the date the Court issues an entity’s Authorization Order and that entity’s launch date. During this period, the entity is not permitted to offer the legal services granted in the Sandbox Authorization Order to the public and is not required to report data to the Office.

### **Revenue Fee**

All licensed entities who collect payment for services must pay .5% of their revenue each fiscal year. Revenue is the total income or gross revenue generated by the sale of services related to the entity’s total authorized Service Method(s) for the prior fiscal year. Entities must pay by the last business day in July. Entities that fail to pay fees on time will incur late fees. This is gross revenue, not a net gain, net revenue, or profit. Annual licensing statements will be distributed after the close of the fiscal year.

### **Service Method**

The method or entity structure an entity uses to deliver legal services to its consumers.

### **Service Method Types**

#### **Alternative Business Structure (“ABS”)**

An entity that includes nonlawyers who have an interest, including profit sharing or decision-making authority in the entity, and engages in the practice of law as defined in [Utah Supreme Court Rule 14-802\(b\)\(1\)](#).

#### **Intermediary Platform**

An entity offering a software-based platform to connect lawyers with interested consumers. An intermediary platform may offer additional legal practice support services such as timekeeping, billing, or video-conferencing.

#### **Alternative Legal Provider**

There are two options for alternative legal providers. An entity can offer services through one or both.

#### **Human Alternative Legal Provider (“HALP”)**

A non-lawyer person providing legal services considered the practice of law under [Utah Supreme Court Rule 14-802\(b\)\(1\)](#).

#### **Software Alternative Legal Provider (“SALP”)**

A software platform providing legal services considered the practice of law under [Utah Supreme Court Rule 14-802\(b\)\(1\)](#).

**With legal professional involvement**

The entity's quality assurance process is directed by a Utah-licensed lawyer(s), whether employed, retained as an independent contractor, or affiliated in a volunteer capacity, who:

- oversees the development of the service method, such as by developing training materials, supervising education and training, developing scripts, algorithmic models, templates, and/or checklists, and
- plays an ongoing quality assurance role, by directing regular reviews of providers' services for quality and accuracy.

**With minimal legal professional involvement**

A Utah-licensed lawyer or Utah-licensed legal professional provides guidance at the front end of the development of the Service Method but has no ongoing involvement or the legal professional's involvement with the entity's ALP quality assurance process occurs solely at the discretion of the entity or its ALPs, i.e., a lawyer who is available to answer questions when the ALP calls.

**Without legal professional involvement**

No Utah-licensed lawyer or Utah-licensed legal professional is involved in providing legal services.

**Effective 5/8/2018**

**75-5-303 Procedure for court appointment of a guardian of an incapacitated person.**

(1) ~~An person alleged to be incapacitated person~~ or any person interested in the alleged incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the person allegedly to be incapacitated ~~person~~ has ~~counsel of the person's own choice, chosen and retained their own counsel,~~ the court shall appoint an attorney to represent the person in the proceeding, the cost of which shall be paid by the person alleged to be incapacitated, unless the ~~allegedly incapacitated~~ person and the ~~allegedly incapacitated~~ person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) ~~(a) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The court may appoint a health care professional with expertise in the functional capabilities of the person alleged to be incapacitated. The health care professional shall submit to the court a report assessing the functional ability of the person to, with or without assistance: receive and evaluate information, make and communicate decisions, and provide for necessities, as defined in Utah Code 75-1-201(22).~~

(b) The person alleged to be incapacitated may be interviewed by a court visitor



appointed by the court.

(c) The court visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) The person alleged to be incapacitated shall be present at the hearing ~~in person~~ and see or hear all evidence bearing upon the person's condition.

(b) If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.   

~~(bc)~~ A ~~The investigation by a~~ court visitor is not required to investigate presence at the hearing if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has extended comatosis.:

~~(i) fourth stage Alzheimer's Disease;~~

~~(ii) extended comatosis; or~~

~~(iii) (A) an intellectual disability; and~~

~~(B) an intelligence quotient score under 25.~~

(d) the person alleged to be incapacitated shall be present at the hearing if counsel has not been appointed to represent the person, as described in Subsections (2) and (6).

~~(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.~~

~~(6d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), shall only be waived is not required if~~ if all of the following criteria are met:

(a) the person's appearance at the hearing has not been waived and the person appears in court with the petitioner;

(b) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the hearing described in Subsection (2)

(c) the court appoints a court visitor under Subsection (4);

(d) the person is given the opportunity to communicate, including to the court visitor and during the hearing, the person's acceptance of the appointment of the petitioner;

(e) the person is the biological or adopted child of the petitioner;

(f) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section [75-3-1201](#); and

(g) the court is satisfied that counsel is not necessary in order to protect the interests of the person.

~~(iii) the person appears in court with the petitioner; (vii) the court appoints a visitor under Subsection (4).~~

~~(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner;~~

~~(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2);~~

~~(vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and~~

~~(vii) the court appoints a visitor under Subsection (4).~~

(7) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed health care professional and the court visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

Amended by Chapter 455, 2018 General Session