

BOARD OF APPELLATE COURT JUDGES

STANDING COMMITTEE ON APPELLATE REPRESENTATION

LORI SEPPI, CHAIR

September 24, 2026

12:00 p.m. - 1:00 p.m.

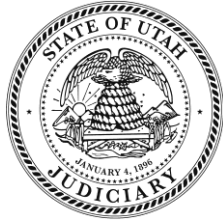
Hybrid Meeting (in person and [Webex](#))

Matheson Courthouse – Judicial Council Room

Lori Sepi, presiding

1. Approval of July 9, 2026 Minutes (Lori Seppi, Tab 1)
2. Executive Session – Discussion of Reapplications: (All, Tab 2)
 - Return to open session
3. Vote on Reapplications (All)
4. Discussion of Proposed Amendments to SCRP 1-401 (All, Tab 3)
5. Discussion of How to Encourage People to Apply and Reapply to the Roster (All)
6. Discussion Whether Reapplication Process Should be Amended (All, Tab 4)

TAB 1



BOARD OF APPELLATE COURT JUDGES

STANDING COMMITTEE ON APPELLATE REPRESENTATION

LORI SEPPI

CHAIR

Draft Meeting Minutes

July 9, 2026

Meeting held through Webex

12:00–1:00 p.m.

Lori Seppi, presiding

<u>Attendees:</u>	<u>Staff:</u>
Lori Seppi, Chair	Nick Stiles
Cherise Bacalski	Amber Griffith
Judge Matthew Bates	
Sarah Jenkins Dewey	<u>Excused:</u>
Margaret Lindsay	William Hains
Monica Maio	
Debra Nelson	

1. Welcome and Approval of September 3, 2025 Minutes: (Lori Seppi)

Lori Seppi welcomed everyone to the meeting. In accordance with Rule 1-401(a)(2) of the Supreme Court Rules of Professional Practice each committee member introduced themselves and disclosed the nature of their legal practice. Following these introductions Ms. Seppi asked for approval of the minutes.

Ms. Seppi moved to approve the minutes. Sarah Jenkins Dewey seconded the motion, and it unanimously passed.

2. Executive Session-Discussion of Application and Current Roster Member: (all)

Judge Bates made a motion to move into executive session for discussion on an Appellate Roster application and a current roster member. Debra Nelson seconded the motion, and it unanimously passed.

3. Return to Public Session: (All)

The Committee returned to public session to vote on the application received for the Appellate Rosters.

Cherise Bacalski moved to recommend to the Appellate Board that Allison Herr be appointed to the appellate roster for child welfare proceedings, and appointed to the appellate rosters for criminal, juvenile, and termination of parental rights proceedings with a mentor. Monica Maio seconded the motion, and it was unanimously approved.

4. Proposed Amendment to SCRP Rule 1-401: (All)

Amber Griffith presented the proposed amendments to the Committee and explained that the amendments would require all reapplications have a due date of July 31st. Currently, the rule has a due date of September 1st unless the attorney was appointed after November 1, 2024, in which case the reapplication is due July 31st.

The Committee questioned whether the due date should be September 1st or July 31st. Nick Stiles recommended selecting July 31st and explained that approvals and denials also must be approved by the Board of Appellate Judges and an earlier date provides more time before the roster member's term would expire.

Judge Bates moved to approve the recommended changes and recommended the proposal be submitted to the Supreme Court for public comment. Margaret Lindsay seconded the motion, and it unanimously passed.

The meeting was adjourned.

TAB 2

TAB 3

Rule 1-401. Standing Committee on Appellate Representation and the Appellate Roster

Intent:

To establish a standing committee to assist the Board of Appellate Court Judges in determining a roster of indigent service provider attorneys who are eligible for appointment to represent indigent individuals on appeal to the Utah Supreme Court and the Utah Court of Appeals.

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

To establish a schedule for recommending the appointment of indigent defense service provider attorneys to, or the removal of indigent defense service provider attorneys from, the Appellate Roster.

Definitions:

The terms “indigent defense service provider,” “indigent individual,” and “indigent defense services,” are defined in Utah Code section 78B-22-102, and The term “Indigent Appellate Defense Division” means is the division created identified are defined in Utah Code sSections 75E-10-602 8EB-1022-6102 and -802. For purposes of this rule:

(1) “Indigent appellate defense service provider entity” means a legal defender office that is under contract to perform indigent defense services for one or more counties in the state and has a designated appellate division consisting of one or more attorneys s who are employed by the legal defender office and whose primary focus is appellate representation. “Employed by” does not include an attorney who contracts separately with an indigent appellate defense service provider entity;

(2) “Indigent defense service provider attorney” means an individual attorney who has been appointed to the Appellate Roster; and

(3) “Appellate Roster” means the list of indigent service provider attorneys who are eligible for appointment to represent indigent individuals on appeal to the Utah Supreme Court and the Utah Court of Appeals.

Commented [JP1]: This looks like it needs some updating.

Section 78B-22-802 was renumbered to 75E-10-602 and so we don’t want to cite -802.

Also, it’s not really accurate to say that -602 (or -802 in the past) defines Indigent Appellate Defense Division, and so I’d recommend this edit with the update to the new statute.

Commented [LS2R1]: I made edits to address Justice Pohlman’s concerns. I used “...means the division created in Utah Code...” because that language mirrors the language in Utah Code 75E-10-601(2).

Applicability:

This rule applies to the internal operation of the Board of Appellate Court Judges and the Committee on Appellate Representation and to courts of record in cases involving indigent individuals.

Statement of the Rule:

(a) **Committee establishment.** The Standing Committee on Appellate Representation is established as a committee of the Board of Appellate Court Judges.

(1) **Composition.** The Committee consists of at least:

(A) One attorney from the Criminal Appeals Division of the Utah Attorney General's Office;

(B) One attorney from an indigent defense service provider representing criminal defendants in counties of the first or second class;

(C) The Chief Appellate Officer or designee of the Indigent Appellate Defense Division;

(D) One attorney on the Appellate Roster for criminal appeals;

(E) One attorney on the Appellate Roster for juvenile delinquency appeals;

(F) One attorney on the Appellate Roster for child welfare appeals;

(G) One active or retired judge from an appellate court;

(H) One active or retired judge from another court of record.

(2) **Appointment.** Committee members are appointed by the Utah Supreme Court and serve staggered four-year terms. The sSupreme cCourt selects a chair from among the Committee's members. Judges who serve as members of the Committee will generally not be selected as chair. Committee members serve as officers of the court and not as representatives of any client, employer, or other organization or interest group. At the Committee's first meeting in any calendar year, and at every meeting at

which a new Committee member first attends, each Committee member will briefly disclose the general nature of the member’s legal practice.

(3) **Vacancies.** In the event of a Committee vacancy, the ~~s~~Supreme ~~c~~Court, after consulting with the Committee chair, will appoint a new Committee member from the same category as the prior Committee member to serve for the remaining unexpired term.

(4) **Absences.** If a Committee member fails to attend two consecutive Committee meetings, the chair may notify the ~~s~~Supreme ~~c~~Court of those absences and may request that the ~~s~~Supreme ~~c~~Court replace that Committee member.

(5) **Administrative assistance.** The Administrative Office of the Courts will coordinate staff support to the Committee, including the Office of General Counsel’s assistance in research and drafting.

(b) **Appellate Roster.** The Board of Appellate Judges maintains an appellate roster of indigent service provider attorneys skilled in handling criminal, juvenile delinquency, ~~and~~ child welfare proceedings as defined in [Rule 1\(f\)](#) of the Utah Rules of Appellate Procedure, and termination of parental rights proceedings under [Utah Code Section 81-13-205](#) ~~78B-6-112~~.

(1) **Purpose of the Committee.** The Committee’s purpose is to recommend to the Board of Appellate Court Judges attorneys for inclusion on an appellate roster of indigent defense service provider attorneys eligible for appointment by the courts of this state to represent indigent individuals on appeal before the Utah Supreme Court or the Utah Court of Appeals. Except as specified in paragraph (b)(9), only attorneys on the Appellate Roster are eligible for such court appointments.

(2) **Committee recommendations.** The Committee will consider and recommend attorneys for inclusion on the Appellate Roster based on the eligibility criteria listed in paragraph (b)(3), together with any other factor bearing on an applicant’s ethics, diligence, competency, abilities in briefing and oral advocacy, and willingness to

Commented [LS3]: I don’t agree with this edit.

80 fairly, efficiently, and effectively provide appellate representation to indigent
 81 individuals ~~on appeal~~. The Committee will consider issues such as quality of briefing,
 82 the applicant's frequency of inadequate briefing, summary dismissals, or involuntary
 83 dismissals, and the applicant's professionalism and civility. The Committee may also
 84 recommend removing an attorney from the Appellate Roster.

85 (3) **Eligibility criteria.** To be considered for the Appellate Roster, an applicant must
 86 at a minimum complete an application in a form provided by the Committee and:

87 (A) demonstrate that the applicant has briefed the merits in at least three appeals
 88 within the past three years or in 12 appeals total, or is directly supervised by an
 89 attorney with that experience;

90 (B) be a member of the Utah [State](#) Bar in good standing;

91 (C) demonstrate knowledge of appellate practice as shown by experience, training,
 92 or legal education;

93 (D) demonstrate ability to adequately and effectively raise and argue issues on
 94 appeal and comply with applicable court rules;

95 (E) certify that the attorney has not, within the past three years, been the subject of
 96 an order issued by any appellate court imposing sanctions against counsel,
 97 discharging counsel, or taking other equivalent action against counsel because of
 98 counsel's substandard performance before an appellate court;

99 (F) must not have been removed from the Appellate Roster within the past year;

100 (G) submit at least two appellate briefs, at least one of which is in the relevant
 101 subject matter area, to the Committee with a certification that the applicant was
 102 primarily responsible for drafting the briefs;

103 (H) submit a petition under [Rule 55](#) of the Utah Rules of Appellate Procedure if
 104 the person is applying to be on the Appellate Roster for appeals from child welfare
 105 proceedings;

Commented [JP4]: Seems duplicative of "appellate representation."

Commented [LS5R4]: I agree with this edit

(I) provide citations for all appellate decisions in which the applicant was counsel of record;

(J) list and explain the reasons for all cases in which the applicant was counsel of record that required excessive extensions, defined here as ten or more extensions in criminal cases, and two or more extensions in juvenile delinquency, child welfare, or termination of parental rights cases; and

(K) certify that the applicant has sufficient time and administrative support to accept an appointment to provide indigent defense services for indigent individuals on appeal and to provide the effective assistance of counsel in every case and a willingness to commit those resources to that representation.

(4) **Roster Selection.** The Board of Appellate Court Judges will approve or disapprove the Committee's recommendations with respect to attorneys to be included on the Appellate Roster. Except as provided in paragraph (b)(7), the Board may not add to the roster an attorney who is not recommended by the Committee.

(5) **Mentoring.** If an attorney is selected for the Appellate Roster on the condition that the attorney have a mentor, then the attorney must select a mentor who meets the qualifications set forth in paragraphs (b)(3)(A)-(F). A mentor must have briefed the merits in at least three appeals within the past three years or in 12 appeals total. The attorney subject to the mentoring requirement must certify in each brief filed on behalf of an indigent individual that the attorney was directly supervised in drafting the brief by a mentor qualified under paragraph (b)(3)(A)-(F). The attorney is not required to name the mentor in their certification.

(6) **Removal.** The Board may at any time remove an attorney from the Appellate Roster based on the attorney's qualifications, skills, experience, or prior performance in any appellate court, or the attorney's failure to maintain eligibility under paragraph (b)(8).

(7) **Reconsideration of removal or non-reappointment.** An attorney who is removed from the Appellate Roster before the end of the attorney's five-year appointment or who is not reappointed to a subsequent term may petition for reconsideration by submitting a letter to the Standing Committee on Appellate Representation. The letter must be submitted within 28 days from the date of the notice informing the attorney of the removal or non-reappointment. The Committee will review all materials relevant to the attorney's petition and recommend to the Board of Appellate Court Judges whether the attorney's removal or non-reappointment should be upheld. The Board of Appellate Court Judges will approve or disapprove the Committee's recommendations.

(8) ~~Application~~ appointment term, CLE requirement, ~~and reapplication, and~~ appointment term.

(A) Application. To be considered for appointment to the Appellate Roster for indigent defense services on appeal, an attorney must apply under the provisions of paragraph (b)(3). ~~An attorney's Appellate Roster appointment is no more than five years, depending on when in the year the attorney is appointed to the roster.~~

(B) CLE requirement. During an attorney's Appellate Roster term, the attorney must complete at least 12 hours of continuing legal education on topics directly relevant to the attorney's Appellate Roster work. The attorney must certify completion of the hours at the time of reapplication and provide documentation of the hours and topics completed.

(C) Reapplication. To maintain eligibility for appointment to provide indigent defense services on appeal, an attorney must reapply under the provisions of paragraph (b)(3) by ~~September 1~~ July 31 of the attorney's fifth year on the Appellate Roster. The attorney must be recommended by the Committee and reappointed to the Appellate Roster by the Board of Appellate Court Judges at the conclusion of the attorney's appointment term.

Commented [JP6]: This is an odd provision. It's just odd to declare the appointment as no more than five years, but then suggest there is an exception to that. It would make more sense to say that the length of the appointment will vary depending on when in the year the attorney is appointed to the roster, but that an attorney's appointment will not exceed five years. Unless, of course, we have appointments that are currently running longer than 5 years.

Commented [LS7R6]: I agree with Justice Pohlman's comments. I've made edits to try to address her concerns. Do we want a deadline for when an original application is due? Or are we willing to consider new applications throughout the year? Unless it creates a logistical mess, I feel like we should entertain new applications anytime someone wants to join the roster.

(D) **Appointment term.** An attorney's Appellate Roster appointment is no more than five years. For attorneys appointed or reappointed after November 1, 2024, all terms will terminate on December 31 of the attorney's fifth year regardless of whether a full five years have been served. ~~For attorneys appointed after November 1, 2024, all terms will terminate on December 31 of the attorney's fifth year regardless of whether a full five years have been served.~~

~~(E) For attorneys appointed after November 1, 2024, applications and reapplications are due before July 31 of the attorney's final year on the roster.~~

(9) **Exemption.** Attorneys employed by an indigent appellate defense service provider entity or the Indigent Appellate Defense Division to provide indigent defense services on appeal are exempt from the requirement to be included on the Appellate Roster. This exemption does not apply to an attorney or an entity that has contracted with an indigent defense service provider to provide indigent defense services on appeal.

(A) **Requirements for entity exempt status.** In order to qualify for exempt status, an indigent appellate defense service provider entity or the Indigent Appellate Defense Division must certify in writing every five years to the Appellate Representation Committee that the entity has:

- (i) an appellate division whose primary focus is appellate representation;
- (ii) a case management tracking system;
- (iii) adequate administrative support;
- (iv) one or more supervising attorneys who are on the appellate roster; and
- (v) oversight and supervision of attorneys who handle appellate cases.

(B) **Inclusion in an entity's exemption.** To be included in an entity's exemption, an attorney must be employed by the indigent appellate defense service provider

Commented [JP8]: I wonder if we should move this up to follow (A). They cover similar ground.

Commented [LS9R8]: See comment above

Commented [JP10]: I wonder if we should move this up to follow (A). They cover similar ground.

Commented [LS11R10]: See comment above

Commented [MF12]: Amber wonders if this subparagraph is needed anymore after the changes to the dates earlier in paragraph 8.

Commented [JP13R12]: Two thoughts:
1. I think (8C) covers what is covered in (E) relative to reapplications. So, if it's only needed to refer to that, I think we could delete it entirely.
2. Do we have a deadline for those not yet on the roster to submit applications? Or do we accept them whenever anyone wants to submit them? If the latter, I maintain my view that we can delete (E) entirely. But if the former, then we should keep (E) but re-write it to refer specifically to an application by an attorney not yet on the roster and to remove the reference to the "final year on the roster."

Commented [LS14R12]: See comment above

entity. Independent contractors do not qualify under an indigent appellate defense service provider entity's exemption.

(c) **Annual schedule.** The Committee must meet at least annually and must submit its annual recommendations to the Board of Appellate Court Judges by October 31. If the Committee determines that additional recommendations should be submitted to the Board of Appellate Court Judges, the Committee may call for additional applications at any time. The Board of Appellate Court Judges will at its next meeting thereafter approve or disapprove the Committee's recommendations of attorneys to be included on the Appellate Roster.

(d) **Contracts in effect before this rule's adoption.** An attorney who, before this rule's adoption, contracted with a government entity to represent indigent individuals on appeal is subject to the provisions of [Rule 38B](#) of the Utah Rules of Appellate Procedure. Upon the contract's termination, expiration, or renewal, the attorney is subject to this rule.

Effective: ~~5/1/2025~~

TAB 4

UTAH APPELLATE ROSTER APPLICATION

Check the Appellate Roster(s) for which you wish to be considered.

- ☐ **Criminal Appeals**
- ☐ **Juvenile Delinquency Appeals**
- ☐ **Appeals from Child Welfare Proceedings**
- ☐ **Appeals from Termination of Parental Rights Proceedings**

1. Contact Information

Name:

Firm Name:

Office Address:

City, State, Zip Code:

Phone Number:

Mobile Number:

Email Address:

Best Way to Contact You:

2. Are you an active member in good standing with the Utah State Bar?

☐ Yes ☐ No

3. Bar Admissions (list all bar admissions and date admitted).

4. Do you have an established law practice in the State of Utah?

☐ Yes ☐ No

Please describe the nature and location of your practice (*e.g.*, “My practice largely consists of state trial work (85%) with some appellate work in Utah County”).

5. Disciplinary History

- a. Have you ever been disciplined, or are you the subject of any pending disciplinary proceeding in the bar of any court (state or federal)?
☐Yes ☐No
- b. In the past three years, have you been the subject of an order issued by any appellate court imposing sanctions, discharging you, or taking other equivalent action against you because of your substandard performance before an appellate court?
☐Yes ☐No

If you answered “yes” to either question, please explain: ☐ N/A

6. Education & Degrees (undergraduate, graduate and law school)

7. Practice & Experience

- a. Do you have a working knowledge of appellate procedure and are you competent to accept membership on the Utah Appellate Roster?
☐Yes ☐No
- b. Have you personally prepared the briefing on the merits in at least three appeals within the past three years or in 12 appeals total?
☐Yes ☐No
- c. Have you been substantially responsible for briefing the merits in at least three appeals within the past three years or in 12 appeals total?
☐Yes ☐No
- d. If you are applying to be on the roster for appeals from child welfare proceedings, have you prepared or been substantially responsible for preparing an Appellate Rule 55 Petition?
☐Yes ☐No
- e. Have you completed the equivalent of 12 months of full time employment, either as an attorney or as a law student or in an appellate practice setting, which may include but is not limited to appellate judicial clerkships, appellate clerkships with the Utah Attorney General’s Office, or appellate clerkships with a legal services agency that represents indigent parties on appeal?
☐Yes ☐No

If you answered yes, during that employment, did you have significant personal involvement in researching legal issues and preparing appellate briefs or appellate opinions, and did you gain experience with the Utah Rules of Appellate Procedure?

☐ Yes ☐ No

If yes, please explain.

- f. Provide a general description of your practice and include an approximate caseload with a percentage of your practice that is devoted to appeals.
- g. State the approximate number of appellate cases in which you were substantially responsible for preparing the briefs within the last five years. Include the name of the case, the citation for the case, and whether you presented oral arguments in the case.
- h. Please list and explain any cases where you were counsel of record that required ten or more extensions in a criminal case, and two or more extensions in a juvenile delinquency, child welfare, or termination of parental rights case.

8. CLE Courses

List any Continuing Legal Education (CLE) courses you have taken in the last five years that may be relevant to appellate advocacy and appellate skills.

9. Indigent Representation

Do you currently represent or have you previously represented indigent individuals in the trial court or appellate courts? If yes, please describe.

10. Public Sector Employment

Have you ever been employed as a prosecutor, public defender, law clerk, judge, or justice?

☐ Yes ☐ No

If yes, please describe the position, the name of your employer and the approximate dates of service.

11. Special Qualifications

- a. Do you have a particular area of legal expertise such as immigration law, non-capital habeas corpus, white collar fraud, Indian law, etc.?

☐ Yes ☐ No

If yes, please describe.

- b. Are you fluent in another language?

☐ Yes ☐ No

If yes, please describe.

- c. Please describe any special qualifications, experience, or any other considerations relevant to the particular roster for which you are applying:

Criminal Appeals:

Juvenile Delinquency Appeals:

Child Welfare Proceedings:

Termination of Parental Rights Proceedings:

12. Availability

- a. Are there any counties or district courts from which you *will not* accept an appointment to represent an indigent party on appeal? (e.g., too far away, conflict with attorneys, etc.).

☐ Yes ☐ No

If yes, please list the counties or district courts from which *you will not* accept an appointment:

- b. Do you have sufficient time and support to accept an appointment to the Utah Appellate Roster?

☐ Yes ☐ No

13. Mentoring

☐ I am willing to be a mentor.

14. References

Please list two legal references who can assess your skills relevant to this Utah Appellate Roster application and provide their addresses, e-mail addresses, and telephone numbers.

- 15. For Reapplication to the Appellate Roster:** Pursuant to SCRP 1-401, did you receive at least 12 hours of continuing legal education on topics directly relevant to your Appellate Roster work during your previous term? Please provide documentation of the CLE you received.

16. Certifications, Signature and Date

I certify that the information contained in this application is true and correct, and that I was substantially responsible for drafting the two briefs I now submit to the Committee as part of my application for membership on the Utah Appellate Roster.

Signature

Date
