

JUDICIAL COUNCIL MEETING

AGENDA

Monday, April 25, 2016
Judicial Council Room
Matheson Courthouse
Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. Chief Justice Matthew B. Durrant
3. 9:10 a.m. Administrator's Report. Daniel J. Becker
4. 9:20 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. Judge David Mortensen
Policy and Planning Judge Reed Parkin
Bar Commission. John Lund, esq.
(Tab 2 - Information)
5. 9:30 a.m. Judicial Performance Evaluation Commission (JPEC)
Update. Jennifer Yim
(Information) David Jordan
6. 10:10 a.m. Rules for Final Action. Nancy Sylvester
(Tab 3 - Action)
7. 10:20 a.m. Retention Elections. Nancy Sylvester
(Tab 4 - Action)
- 10:30 a.m. Break
8. 10:40 a.m. Presentation of the FY 2017 Spending Plan. Daniel J. Becker
(Tab 5 - Information)
9. 11:20 a.m. Proposed Senior Judge Rule Change. Nancy Sylvester
(Tab 6 - Action)
10. 12:00 p.m. Utah Mediation Best Practice Guide. Judge Royal Hansen
(Tab 7 - Action) Nini Rich
- 12:10 p.m. Lunch

11. 12:40 p.m. Adoption of FY 2017 Spending Plan &
Compensation Adjustment Approval. Daniel J. Becker
(Action)
12. 1:25 p.m. Executive Session
13. 2:05 p.m. Adjourn

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

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| 1. Committee Appointments
(Tab 8) | Stacey Snyder
Tom Langhorne
Alyn Lunceford
Nancy Sylvester |
|--------------------------------------|---|

TAB 1

JUDICIAL COUNCIL MEETING

Minutes

Friday, March 11, 2016

Rimrock Ballroom

Courtyard Marriott

St George, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant

Justice Thomas Lee

Hon. Marvin Bagley

Hon. Mark DeCaria

Hon. Paul Farr

Hon. Thomas Higbee

Hon. David Marx

Hon. David Mortensen

Hon. Mary Noonan

Hon. Reed Parkin

Hon. Randall Skanchy

Hon. Kate Toomey

John Lund, esq.

EXCUSED:

Hon. Ann Boyden

STAFF PRESENT:

Daniel J. Becker

Ray Wahl

Jody Gonzales

Debra Moore

Dawn Marie Rubio

Rick Schwermer

Tim Shea

Kim Allard

Nancy Sylvester (by phone)

GUESTS:

Angelina Tsu

Robert Rice

Rick Davis

Judge John Walton

Judge Noel Hyde

Russ Pearson

Shane Bahr

Comm. Joshua Faulkner

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Skanchy moved to approve the minutes from the February 22, 2016 Judicial Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reported on the following items:

He acknowledged the passing of Judge John Anderson and Judge James Davis.

He expressed his gratitude to Mr. Dan Becker, Mr. Ray Wahl, Mr. Rick Schwermer, Mr. Derek Byrne, and Mr. Alyn Lunceford for all the work they accomplished, on behalf of the courts, during the 2016 Legislative Session.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

Second District Court TCE. Mr. Larry Webster has been selected as the Second District TCE. Mr. Becker provided background information of his work experience.

Court Hackathon. A court hackathon was held at the Matheson Courthouse last weekend with close to 100 participants. The participants were challenged with creating programs that would provide better interface between the public and the courts.

Legislative Audit – Cash Bail System. Another audit of the cash bail system will be conducted. An entrance conference is scheduled for March 14.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

Judge Mortensen reported that a legislative report would be deferred to later in the meeting.

Policy and Planning Meeting:

Judge Parkin reported that there is a rule for final action to be considered later on the agenda.

Bar Commission Report:

Mr. Lund deferred the Bar Commission report to later in the meeting which will be provided by Ms. Angelina Tsu and Mr. Robert Rice.

**5. REMARKS FROM UTAH STATE BAR PRESIDENT/PRESIDENT ELECT:
(Angelina Tsu and Robert Rice)**

Chief Justice Durrant welcomed Ms. Angelina Tsu and Mr. Robert Rice to the meeting.

Ms. Tsu and Mr. Rice highlighted the following in their remarks: 1) educating attorneys on the importance of attorney surveys relative to judicial performance evaluations, 2) Affordable Attorneys for All, 3) Utah State Bar directory project, 4) Courthouse Steps Program, and 5) Utah State Bar amendments to Rule 14-807 – Law School Student and Law School Graduate Legal Assistance.

Ms. Tsu and Mr. Rice were thanked for their service to the Utah State Bar membership.

6. FIFTH DISTRICT UPDATE: (Judge John Walton, Judge Thomas Higbee, and Rick Davis)

Chief Justice Durrant welcomed Judge John Walton and Mr. Davis to the meeting.

Judge Walton and Mr. Davis highlighted the following in their update: 1) Fifth District Court juvenile judges continue to cover protective order hearings in St. George; 2) Judge Paul Lyman, Sixth District Court, continues providing coverage of district court matters in Beaver County; 3) the continued need for an additional judgeship in the Fifth District; 4) continued senior judge assistance is being provided, and 5) the seven-month case filing update reflects an increase of 13% in domestic case filings and an increase of 11% of general civil filings.

Judge Higbee highlighted the following in his update: 1) referrals are holding steady, and 2) access to available services to help families of youth in Iron County and Beaver continues to be a challenge.

Chief Justice thanked them for their Fifth District Court update.

7. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Noel Hyde and Debra Moore)

Chief Justice Durrant welcomed Judge Hyde to the meeting.

Judge Hyde highlighted the following in his update to the Council: 1) acknowledged all that Ms. Moore does on behalf of the Board of District Court Judges, 2) review of the judicial weighted caseload, 3) document management system changes relative to document numbering, 4) supportive of JRI efforts, and 5) proposed senior judge rule change.

Judge Hyde mentioned the Board of District Court Judges opposition to the proposed draft of the senior judge rule. The Board of District Court Judges voted, unanimously, at their March 10 meeting, to request the Council defer action on Rule 3-108 – Judicial assistance until their April meeting to allow the Board of District Court Judges to prepare input relative to the proposed rule change.

Judge Hyde was thanked for his update.

8. RULE FOR FINAL ACTION: (Judge Reed Parkin and Nancy Sylvester)

Judge Parkin noted that Ms. Nancy Sylvester would be representing the AOC in Ms. Adams-Perlac's stead.

Judge Parkin noted the charge of the Policy and Planning Committee as they reviewed the senior judge rule change.

The proposed amendments to Rule 3-108 – Judicial assistance pertaining to the use of senior judges includes two assignment categories: 1) exigent circumstances, and 2) non-exigent circumstances.

Mr. Shea provided an interpretation of the Supreme Court Rule 11-201 – senior judges, specifically, as it pertains to the assignment of a senior judge under paragraph 6. Any assignment beyond 60 days is considered an extraordinary circumstance, and the assignment rests with the chief justice.

It was noted that the intention of Rule 11-201 spoke to the perspective to designate and use a senior judge but not the authority and assignment in appointing a senior judge.

Discussion took place.

Motion: Judge Skanchy moved to defer action on Rule 3-108 – Judicial assistance until the April Council meeting to allow for the Board of District Court Judges to prepare a response, as well as, look at redrafting the rule as it relates to exigent circumstances. Justice Lee seconded the motion.

The motion was amended to defer action on Rule 3-108 – Judicial assistance until the April Council meeting to allow for the respective boards to prepare a response and invite them to present their perspectives at the April Council meeting for further discussion and action. The amendment to the motion was accepted, and it passed unanimously.

Mr. Becker reported that he will get input at the upcoming PJ/TCE/Clerk of Court meeting.

9. CHANGES TO CIVIL COVER SHEETS/CASE TYPES: (Kim Allard)

Chief Justice Durrant welcomed Ms. Allard to the meeting.

Ms. Allard highlighted the following changes made to civil case types: 1) changes regarding small claims, 2) general civil, 3) guardianship, and 4) torts.

Discussion took place relative to the asbestos case type. Ms. Allard noted that the asbestos case type could be left as is and a product liability case type created.

Motion: Judge Toomey moved to approve the changes in case types as proposed, with the exception of the asbestos case type. Judge Skanchy seconded the motion, and it passed unanimously.

10. TCE UPDATE: (Russ Pearson and Shane Bahr)

Chief Justice Durrant welcomed Mr. Russ Pearson and Mr. Shane Bahr to the meeting.

A handout providing details of the *Annual Trial Court Executive Report to the Judicial Council* was distributed to members of the Council.

Mr. Pearson and Mr. Bahr highlighted the following in their update to the Council: 1) mandatory e-filing in juvenile court, Phase I, effective December 1, 2015; 2) Phase II of e-filing in juvenile court is scheduled to deploy on August 1, 2016; 3) development of a method to send appeals records electronically to the Appellate Courts using Adobe Pro; 4) court staff continues scanning and uploading documents on behalf of pro se parties; 5) two Supervisory Skills Development Academies were held; 6) a Mid-Management Leadership Academy was held; 7) Academy attendees are encouraged to visit a monthly TCE meeting to expose them to management discussion on a state level; 8) 34 court executives, clerks of court, and chief probation officers have completed the Michigan State University (MSU) Judicial Administration Program with a graduation ceremony to be held on August 23; 9) employee survey; 10) addressing declining referrals by repurposing probation positions; 11) Phase I of the Duchesne County District Court construction has been completed; 12) design and planning of future court facilities in Provo, Carbon County and Manti was noted; 13) use of court resources when vacancies occur; and 14) addressing implications of the Justice Reinvestment Initiative at monthly meetings.

Questions were asked relative to evaluating the work of case managers in each judicial district. Responses were provided.

Mr. Becker expressed his appreciation to all the court executives for all they do on behalf of the courts.

11. LEGISLATIVE BUDGET UPDATE/INTERIM HIGHLIGHTS: (Daniel J. Becker and Rick Schwermer)

Mr. Becker express his appreciation to the AOC staff who provided support during the 2016 Legislative Session to include: 1) Mr. Rick Schwermer, 2) Mr. Ray Wahl, 3) Mr. Alyn Lunceford, and 4) Mr. Derek Byrne.

He highlighted the appropriation requests approved for the courts during the 2016 Legislative Session: 1) Fourth District Juvenile Court Judge and staff; 2) CORIS-AIS Rewrite; 3) juror/witness/interpreter FY 2015 supplemental; 4) parking facility for the new Provo courthouse; 5) compensation increases—2% COLA, 4.04% increase in judicial compensation; 6) health insurance cost increase; 7) retirement cost increase; and 8) employee 401K match.

The following court budget requests were not funded during the 2016 Legislative Session: 1) Fifth District Court Judge and staff, 2) court lease increases, 3) replace main line item court complex account with general fund, and 4) ongoing juror/witness/interpreter funding.

Mr. Becker mentioned that the FY 2017 budget will be discussed and approved at the April Council meeting.

Mr. Schwermer highlighted the following bills which were considered during the 2016 Legislative Session:

HB 160 Justice Court Qualifications Amendments, 3rd Substitute – Amended and Passed
HB 207 – Fourth District Court Juvenile Judge – Passed
HB 297 – Bail Bond Amendments – Amended, Merged, Failed
HB 377 Grandparents Rights Amendments – Passed
HB 381 1st Sub – Standards for Issuance of Summons – Fixed, Passed
HB 405 – Juvenile Sentencing Amendments – Subbed, Passed
SB 42 Public Notice of Court Recording – Passed
SB 45 – Compulsory Education Revisions 1st Sub – Failed
SB 79 4th Sub – Child Welfare Revisions – Passed
SB 90 4th Sub – Falsification of Information in a Protective Order Proceeding – Fixed,
Failed
SB 155 – Indigent Defense Commission 2nd Sub – Subbed, Passed
SB 187 Reclassification of Misdemeanors 1st Sub – Passed
SB 206 – Cohabitant Abuse Procedures Act Provisions – Passed
SB 209 – Fifth District Court Judge – Failed
SB 243 – Indigent Counsel in Private Parental Termination Cases fixed, merged into SB
155 - Passed
SB 158 – Juvenile Court and Child Abuse Amendments – Passed
SB 181 – Judiciary Amendments – Passed
HB 455 – Health Modifications – Passed

Motion: Judge Skanchy moved to enter into an executive session to discuss personnel and legal matters. The motion was seconded, and it passed unanimously.

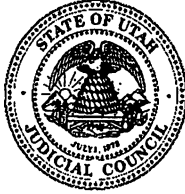
12. EXECUTIVE SESSION

An executive session was held at this time.

Motion: Judge Skanchy moved to instruct the state court administrator to take appropriate action as discussed in the executive session. Judge Toomey seconded the motion. The motion passed with Judge Marx and Justice Lee abstaining from the vote.

13. ADJOURN

The meeting was adjourned.



Administrative Office of the Courts

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

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator


Sworn Statement under Rule 2-103(5)(B) of the Utah Code of Judicial Administration Regarding Judicial Council Meeting Closure

I, Justice Matthew B. Durrant, state as follows:

1. On 3-11-16 (date), the Judicial Council closed its meeting. The meeting was closed only to discuss:
 - ☒ the character, competence, or physical or mental health of an individual;
 - ☐ the deployment of security personnel, devices, or systems.
2. For the reason(s) noted above, a recording and minutes were not kept during the closed portion of the meeting.

I declare under penalty of perjury that the statements made in this document are true and correct.

3-11-16
Date


Justice Matthew B. Durrant
Chair, Utah Judicial Council

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

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TAB 2

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, April 12, 2016
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. Randall Skanchy
Hon. Thomas Higbee
Hon. David Marx
Hon. Kate Toomey

EXCUSED:

GUESTS:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Debra Moore
Dawn Marie Rubio
Tim Shea
Brent Johnson
Tom Langhorne
Alyn Lunceford
Stacey Snyder
Nancy Sylvester

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

Motion: Judge Skanchy moved to approve the February 22, 2016 Management Committee meeting minutes. Judge Toomey seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

First District Court TCE. Mr. Corrie Keller, First District Court TCE, has submitted his resignation, due to health reasons, effective May 1.

JPEC. Chief Justice Matthew Durrant and Mr. Becker met with Jennifer Yim, JPEC's new executive director, on Monday, April 11.

Nine-Month Case Filing Update. Mr. Becker highlighted the following referral/case filing data: 1) overall juvenile court referrals reflect an 11% decrease, 2) overall district court case filings reflect a 4% decrease, and 3) overall justice court case filings reflect a 9% decrease.

Legislative Action Plan. A legislative action plan has been prepared by Mr. Schwermer relative to all passed and signed bills of the 2016 Legislative Session to ensure all necessary work has been completed prior to their effective dates.

3. COMMITTEE APPOINTMENTS: (Stacey Snyder, Tom Langhorne, Alyn Luncford, and Nancy Sylvester)

The Guardian ad Litem Oversight Committee has a vacancy due to the resignation of Mr. Michael Jorgensen. Ms. Erin Hill and Mr. Jason Richards expressed interested in serving on the committee.

Ms. Stacey Snyder provided background information relative to work history of Ms. Hill and Mr. Richards.

Motion: Judge Toomey moved to approve the appointment of Mr. Jason Richards to fill the vacancy on the Guardian ad Litem Oversight Committee and place it on the April Judicial Council consent calendar. Judge Skanchy seconded the motion, and it passed unanimously.

The Standing Education Committee has a vacancy for a clerk of court representative. During the last clerk of court meeting, Ms. Lynn Wiseman was nominated to fill the vacancy. The Standing Education Committee approved the nomination of Ms. Wiseman.

Motion: Judge Higbee moved to approve the appointment of Ms. Lynn Wiseman to fill the vacancy on the Standing Education Committee for a clerk of court representative and place it on the April Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

The Facilities Planning Committee recommended the reappointment of Judge Charles Behrens to serve a second term on the committee as the juvenile court representative and Judge Samuel McVey to serve a second term on the committee as the district court representative. Judge McVey has agreed to serve as the committee chair during his second term on the committee.

Motion: Judge Skanchy moved to approve the reappointment of Judge Behrens to serve a second term on the committee as the juvenile court representative and Judge Samuel McVey to serve a second term on the committee as the district court representative and as the committee chair and place it on the April Judicial Council consent calendar. Judge Higbee seconded the motion, and it passed unanimously.

The Language Access Committee has a vacancy for a juvenile judge representative. The Board of Juvenile Court Judges recommended Judge Michael Leavitt be appointed as the juvenile judge representative on the committee.

Motion: Judge Skanchy moved to approve the appointment of Judge Michael Leavitt to fill the vacancy for a juvenile court representative on the Language Access Committee and place it on the April Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

The newly created Pre-Trial Release and Supervision Standing Committee has vacancies for the following appointments: 1) commercial surety agent, 2) state senator, and 3) state representative.

The Bail Bond Oversight Committee recommended the appointment of Mr. Jeffrey J. Clayton to serve on the Pre-Trial Release and Supervision Standing Committee. Ms. Sylvester provided his background information relative to his work experience. She noted that he is currently working as the General Counsel for the Professional Bail Agents of Colorado.

Discussion took place.

Motion: Judge Higbee moved to not approve the appointment of Jeffrey J. Clayton to serve as the commercial surety agent on the Pre-Trial Release and Supervision Standing Committee and to request another recommendation for a commercial surety agent. Judge Marx seconded the motion, and it passed unanimously.

Senator Lyle Hillyard and Representative Eric Hutchings served on the Pre-Trial Release Study Committee, and discussion took place on whether to invite them to serve on the Pre-Trial Release and Supervision Standing Committee or appoint another state senator and state representative to serve on the committee.

Motion: Judge Skanchy moved to approve the appointment of Senator Lyle Hillyard and Representative Eric Hutchings to serve on the Pre-Trial Release and Supervision Standing Committee and place it on the April Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

4. **COMMISSIONER ATTORNEY EXCLUSIONS: (Nancy Sylvester)**

Commissioner Kim Luhn, Commissioner Joshua Faulkner, and Commissioner Anthony Ferdon have requested attorney exclusions from their surveys this year.

Ms. Sylvester reviewed the requested exclusions provided by Commissioners Luhn, Faulkner and Ferdon.

Motion: Judge Skanchy moved to not exclude the attorney survey of [REDACTED] from Commissioner Luhn's performance evaluation survey. Judge Marx seconded the motion, and it passed unanimously.

Motion: Judge Skanchy moved to exclude the attorney survey of [REDACTED] due to potential bias from Commissioner Luhn's performance evaluation survey. Judge Higbee seconded the motion, and it passed unanimously.

Motion: Judge Higbee moved to not exclude the attorney survey of [REDACTED] from Commissioner Faulkner's performance evaluation survey. Judge Skanchy seconded the motion, and it passed unanimously.

Motion: Judge Skanchy moved to exclude the attorney surveys of [REDACTED] and [REDACTED] from Commissioner Faulkner's performance evaluation survey. Judge Marx seconded the motion, and it passed unanimously.

Motion: Judge Toomey moved to not exclude the attorney survey of [REDACTED] from Commissioner Faulkner's performance evaluation survey. Judge Skanchy seconded the motion, and it passed unanimously.

Motion: Judge Higbee moved to exclude the attorney survey of [REDACTED] if he has not appeared in court in any other case. Judge Skanchy seconded the motion, and it passed unanimously.

5. INDIGENT DEFENSE COMMITTEE: RETIRED JUDGE APPOINTMENTS: (Daniel J. Becker)

Mr. Becker mentioned that the Indigent Defense Committee has requested appointment of a retired judge to serve on the committee. Mr. Becker highlighted names of the current inactive senior judges to include: 1) Judge Bill Bohling, 2) Judge Doug Cornaby, 3) Judge Philip Eves, 4) Judge Dennis Frederick, 5) Judge Floyd Gowans, 6) Judge Tim Hanson, 7) Judge Glenn Iwasaki, 8) Judge Tyrone Medley, 9) Judge Dave Roth, and 10) Judge Ray Uno.

Discussion took place.

The Management Committee agreed upon Judge Bill Bohling or Judge Tim Hanson as possible appointments to the Indigent Defense Committee. Mr. Becker will contact Judge Bohling with the request to serve on the committee, and if he is unable to serve, he will contact Judge Hanson.

6. STATE BAR DUES ISSUE: (Brent Johnson)

Mr. Johnson was asked by a judge to determine whether the practice of the Utah State Bar issuing rebates from membership bar dues to members seeking reimbursement for lobbying/legislative expenses was ethical and appropriate if requested by court/judicial staff. He mentioned that bar dues for court/judicial staff are paid, annually, by the Administrative Office of the Courts (AOC).

Discussion took place.

After discussing the matter, it was decided that Mr. Johnson would contact the Utah State Bar and request that bar dues received from members of the judiciary not be used for legislative matters.

7. FY 2017 SPENDING PLAN PREVIEW: (Daniel J. Becker)

Mr. Becker provided a preview of the FY 2017 spending plan which will be presented to the Council at their April meeting for approval.

He noted there would be less carry forward funding due to the following: 1) more spending in FY 2016; 2) additional senior judge funding, from the reserve, was approved in FY 2016; and 3) less fiscal note money from the 2017 Legislative Session was approved.

Mr. Becker highlighted the following ongoing budget obligations for FY 2017: 1) career track obligations, 2) Fourth District Juvenile Judge, 3) Justice Court Administrator, and 4) Fourth District Court Law Clerks.

The following ongoing budget items deferred from the 2016 August Budget and Planning Session will be considered: 1) Volunteer Court Visitor Program, 2) District Court Program Administrator (.75 FTE to 1.0 FTE), and 3) law clerks (2 FTEs).

New ongoing budget requests include: 1) commissioner compensation, 2) EBP training and program evaluation, and 3) Domestic Violence Program Coordinator (.5 FTE to 1.0 FTE).

Mr. Becker noted that once the fiscal year has closed, we will know whether there will be additional carry forward funding available.

FY 2017 one-time budget obligations include: 1) CORIS project, 2) Fourth District law clerk/bailiff benefit package, 3) senior judges – Fifth District, and 4) senior judges – Court of Appeals.

FY 2017 one-time budget items deferred from the August Budget and Planning session include: 1) computer replacement schedule.

Mr. Becker highlighted the following FY 2017 one-time budget requests: 1) Volunteer Court Visitor Program, 2) time-limited law clerks, 3) employee incentive awards, 4) second language stipend, 5) tuition assistance, 6) employee assistance, 7) grant matching funds, 8) judicial operations budget, 9) Utah code, 10) Fourth District scanning project, 11) senior judge assistance and 12) reserve.

Discussion took place.

Mr. Becker provided clarification on the use of funding as a result of judicial vacancies.

8. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)

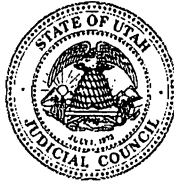
Chief Justice Durrant reviewed the proposed Judicial Council agenda for the April 25 Council meeting.

Motion: Judge Toomey moved to approve the agenda for the April 25 Judicial Council meeting as amended. Judge Skanchy seconded the motion, and it passed unanimously.

9. ADJOURN

The meeting was adjourned.

TAB 3



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Alison Adams-Perlac *Alison Adams-Perlac*
Date: March 4, 2016
Re: Rules for Final Action

The public comment period for rule 1-201 of the Utah Code of Judicial Administration is now closed. The proposal received no public comments. The Policy and Planning Committee voted to recommend the rule, as written, to the Council for final action.

CJA 01-0201. Membership - Election. Amend. Provides that Council members are not eligible to be voting members of a Board of Judges of a trial court.

If the proposal is approved by this Council, it will be effective May 1, 2016.

Encl. CJA 01-0201

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efficient, and independent system for the advancement of justice under the law.

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Rule 1-201. Membership - Election.

Intent:

To establish the manner of election of Council members as authorized by statute.

To establish the procedure for filling a vacancy on the Council as authorized by statute.

Applicability:

This rule shall apply to all elected members of the Council. This rule shall not apply to the Chief Justice of the Supreme Court.

This rule shall apply to the Boards of Judges and the Board of Commissioners of the Utah State Bar.

As used in this rule, unless the context indicates otherwise, "Board" includes the Boards of Judges and the Board of Commissioners of the Utah State Bar.

Statement of the Rule:

(1) The composition of the Council, the term of office of elected Council members, and the electorate of elected Council members shall be as prescribed by law. The term of office of all elected Council members shall begin with the October meeting of the Council.

(2) Election of Council members from courts of record shall take place at the annual judicial conference. Election of Council members from courts not of record shall take place at the annual spring training conference of the justice court judges. Election of the representative of the Utah State Bar shall take place at a regularly scheduled meeting of the Board of Commissioners.

(3)(A) If a judicial member of the Council who represents a trial court is unable to complete a term of office, the Board for the court represented by that member shall appoint a judge to serve on the Council until the next judicial conference or the next spring training conference as the case may be. At such conference, the judges shall elect a member to the Council to serve for the unexpired portion of the original term. If a judicial member of the Council who represents an appellate court is unable to complete a term of office, the members of that court shall appoint a judge to serve on the Council until the expiration of the vacated term.

(3)(B) If the representative of the Utah State Bar is unable to complete a term of office, the Board of Commissioners shall elect a member or ex officio member of the Board of Commissioners to serve for the unexpired portion of the original term.

(3)(C) No person shall serve on the Judicial Council for more than two consecutive terms and the remainder of a predecessor's term.

(4) The Boards shall develop procedures for the nomination and election of Council members and shall certify to the Council the names of the members elected. The Boards shall give due regard to geographic representation, security of the election, timely publication of Council vacancies or expired terms, and ease of administration.

(5) When a judicial member of the Council is unable to attend a Council meeting, that member may designate a judge from the same level of court to attend the Council meeting and observe the proceedings. When the representative of the Utah State Bar is unable to attend a Council meeting, that

38 member may designate a member or ex officio member of the Board of Commissioners to attend the
39 Council meeting and observe the proceedings. The designee shall be provided with a copy of the Council
40 agenda and other meeting materials, and may attend the open and closed sessions of the meeting. The
41 designee may participate in the general discussion of agenda items but may not make motions or vote on
42 Council issues.

43 (6) Council members or their designated substitutes may be reimbursed for actual and necessary
44 expenses incurred in the execution of their duties as Council members.

45 (7) Council members shall not be eligible to serve as voting members of a the-Boards of Judges of a
46 trial court or to serve as members of the standing committees of the Council. The representative of the
47 Utah State Bar may vote at meetings of the Board of Commissioners if permitted to vote under rules
48 governing the conduct of the Board of Commissioners.



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy Sylvester*
Date: April 5, 2016
Re: Rules for Final Action and Expedited Rule

1. RULES FOR FINAL ACTION

The public comment period for the following rules of the Utah Code of Judicial Administration has closed and the proposals are ready for final action by this Council. Only one rule, 4-106, received a comment. The Policy and Planning Committee recommended each of the proposals, as written, for final action. If the Council approves these proposals, they will be effective May 1, 2016.

a. Remote Hearings. Rules 3-302, 4-106, 9-105.

The following rules were amended to better provide for remote hearings.

CJA 03-0302. Clerk of Court. Amend. Provides that the clerk's office shall be open during all business hours except Saturdays, Sundays, and holidays. Provides that during hours of operation the clerk or deputy shall be physically present, or immediately available remotely.

Rule 3-302's amendments are at lines 32-34. The proposal did not receive any comments.

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efficient, and independent system for the advancement of justice under the law.

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CJA 04-0106. Electronic conferencing. Amend. Authorizes the use of remote conferencing in lieu of personal appearances when certain requirements are met.

Rule 4-106 was amended throughout to establish the minimum requirements for remote appearance from a different location. The proposal received the following comment:

Proposed rule CJA04-0106 appears to conflict with Rule 43 of the Utah Rules of Civil Procedure. It would be better to amend that rule.

Posted by Leslie Slauch February 3, 2016 at 4:13 pm

The Policy and Planning Committee considered the comment to Rule 4-106 and determined Rule 43 and amended Rule 4-106 would not conflict.

CJA 09-0105. Justice Court hours. Amend. Provides that during hours of operation, the justice court judge or clerk shall be physically present, or immediately available remotely.

Rule 3-105 was amended at lines 11-13. The proposal did not receive any comments.

The committee voted to recommend all of the proposals above as written.

b. Language Access. Rules 3-306.01, 3-302.02, 3-306.03, 3-306.04, 3-306.05.

The following Language Access rules were created from Rule 3-306. The amendments streamline the processes surrounding language access in the courts and also add new discipline procedures. The rules did not receive any comments. The Policy and Planning Committee voted to recommend all of the proposals as written.

CJA 03-0306.01. Language access definitions. New. Defines terms applicable to rules 3-306.02 through 3-306.05 of the Utah Code of Judicial Administration. Deletions and additions to the language are redlined.

CJA 03-0306.02. Language Access Committee. New. Outlines the Language Access Committee's responsibilities. Deletions and additions to the language are redlined.

The changes in Rules 3-306.01 and 3-306.02 simply move language from Rule 3-306 to another subpart.

CJA 03-0306.03. Interpreter certification. New. Outlines the process for becoming a certified interpreter. Provides a process whereby an exception may be made to one or more of the requirements as determined by the Language Access Committee. Reiterates the policy that contract interpreters are independent contractors. Deletions and additions to the language are redlined.

Rule 3-306.03 adds paragraphs (3), (4), (5), and (7).

CJA 03-0306.04. Interpreter appointment, payment, and fees. New. Outlines the interpreter appointment process. Provides that the Judicial Council will review a market study every three years in order to set hourly rates for interpreters. Deletions and additions to the language are redlined.

The amendment to Rule 3-306.04 is found in paragraph (7)(A) at lines 89-

91.

CJA 03-0306.05. Interpreter removal, discipline, and formal complaints. New. Outlines the interpreter discipline process. Provides that an interpreter may be disciplined for unprofessional conduct, or for being convicted of, or charged with, a crime. Revises the formal complaint process so that following a proposed resolution by the Language Access Program Coordinator, an interpreter may request a hearing before a panel of the Language Access Committee, and may appeal that panel's decision to the Language Access Committee. Deletions and additions to the language are redlined.

The amendments to Rule 3-306.05 are found throughout the rule.

c. Responsibility for Administration of the Trial Courts. Rule 4-408.01.

The following rule was amended at line 12 to reflect the Morgan District Court's removal from the county or municipality contract list. Rule 4-408.01 did not receive any comments and the Policy and Planning Committee voted to recommend the proposal as written.

CJA 04-0408.01 Responsibility for administration of trial courts. Amend. Removes Morgan from the list of district courts administered by a county or municipality, since it is administered by the Administrative Office of the Courts.

d. Victims' Rights Committees. Rule 4-602.

The Policy and Planning Committee determined that Rule 4-602 of the Utah Code of Judicial Administration conflicts with Utah Code section 77-37-5, which outlines the membership of victims' rights committees and how they are appointed. The statute does not include the judiciary. The rule did not receive any comments and Policy and Planning recommends repealing it.

CJA 04-0602. Victims' Rights Committees. Repeal. Repeals the rule because the process for establishing Victims' Rights Committees is now outlined by Utah Code section 77-37-5.

e. Mandatory Electronic Filing. Rule 9-302.

To mirror the electronic filing already occurring in the district and juvenile courts, the Policy and Planning Committee recommends adopting Rule 9-302, which provides for discretionary e-filing in justice courts. E-filing will become mandatory after six months.

CJA 09-0302. Mandatory electronic filing. New. Provides that e-filing will be discretionary in justice court criminal cases from July 1, 2016 to December 31, 2016. Provides that e-filing will be mandatory in justice court criminal cases beginning December 31, 2016.

2. EXPEDITED RULE

The Policy and Planning Committee has recommended adopting on an expedited basis rule 4-401.03 to address the courts' responsibility under amended Utah Code section 78A-2-208 for providing notice of recording.

CJA 04-401.03. Notice to public of recording. New. Establishes uniform standards and procedures for notifying the public when court proceedings are being recorded.

The rule tracks the language of section 78A-2-208 and is drafted in a way that is broad enough to ensure courts of all levels may easily comply with it. Policy and Planning recommends its expedited adoption since amended Utah Code section 78A-2-208 will be effective on May 10. If the Council votes to expedite the proposal, the rule will be effective on May 10 and subject to change following the public comment period.

Encl. CJA 03-0302.

CJA 04-0106.

Comment to 4-106 by Leslie Slaugh

CJA 09-0105.

CJA 03-0306.01.

CJA 03-0306.02.

CJA 03-0306.03.

CJA 03-0306.04.

CJA 03-0306.05.

CJA 04-0408.01

CJA 04-0602.

CJA 09-0302.

Utah Code § 78A-2-208

Rule 3-302. Clerk of the Court.

Intent:

To describe the role of the Clerk of the Court.

To specify the procedure by which the Clerk of the Court is selected.

Applicability:

This rule shall apply to the trial courts of record.

Statement of the Rule:

(1) The Clerk of the district and juvenile courts shall be appointed by the court executive with the concurrence of a majority of the judges assigned to that court location. In locations of the district court administered by contract with the administrative office of the courts, the elected county clerk shall serve as Clerk of the Court.

(2) The Clerk of the Court shall:

(A) take charge of and safely keep the court seal;

(B) take charge of and safely keep or dispose of, according to law, all books, papers and records filed or deposited in the Clerk's Office;

(C) issue all notices, process and summonses where authorized by law;

(D) keep a record of all orders, judgments and decrees as required by law and this Code;

(E) keep minutes of court proceedings;

(F) keep a fee record as provided in this Code;

(G) keep records of jurors' services as provided in this Code;

(H) keep records of witnesses' attendance as provided in this Code;

(I) keep a record of executions as provided in this Code;

(J) take and certify acknowledgments and administer oaths;

(K) keep a record of fines, penalties, costs, and forfeitures as required by law and this Code;

(L) prepare revenue reports, reconcile accounting ledgers to bank statements, maintain and serve as custodian of trust accounts and perform such other accounting duties as assigned by the court executive;

(M) keep a record of court exhibits and ensure the safekeeping of exhibits;

(N) supervise such deputy clerks as required to perform the duties specified in this rule;

(O) keep such other records and perform such other duties as assigned by the court executive in accordance with applicable law and the provisions of this Code.

(3) The clerk's office shall be open and available to transact business during business hours on all days except Saturdays, Sundays, and legal holidays. When the clerk's office is open, the clerk or a deputy shall be physically present or immediately available remotely.

Rule 4-106. ~~Electronic Remote~~ conferencing.

Intent:

To authorize the use of ~~electronic~~ conferencing from a different location in lieu of personal appearances in appropriate cases.

To establish the minimum requirements for remote appearance from a different location.

Applicability:

This rule shall apply to all courts of record and not of record.

Statement of the Rule:

~~(1) In the judge's discretion, any hearing may be conducted using telephone or video conferencing.~~

~~(2) Any proceeding in which a person appears by telephone or video conferencing shall proceed as required in any other hearing including keeping a verbatim record.~~

(1) If the requirements of paragraph (3) are satisfied, the judge may conduct the hearing remotely.

(2) If the requirements of paragraph (3) are met, the court may, for good cause, permit a witness, a party, or counsel to participate in a hearing remotely.

(3) The remote appearance must enable:

(3)(A) a party and the party's counsel to communicate confidentially;

(3)(B) documents, photos and other things that are delivered in the courtroom to be delivered previously or simultaneously to the remote participants;

(3)(C) interpretation for a person of limited English proficiency; and

(3)(D) a verbatim record of the hearing.

Leslie Slauch

February 3, 2016 at 4:13 pm Edit

Proposed rule CJA04-0106 appears to conflict with Rule 43 of the Utah Rules of Civil Procedure. It would be better to amend that rule.

Rule 9-105. Justice Court hours.**Intent:**

To establish minimum court hours for Justice Courts.

Applicability:

This rule shall apply to all Justice Courts.

Statement of the Rule:

(1) Every Justice Court shall establish a regular schedule of court hours to be posted in a conspicuous location at the court site.

(2) Justice Courts shall be open and available to transact judicial business every business day, Monday through Friday, excluding holidays as defined in Utah Code Section 63G-1-301, and unless specifically waived by the Judicial Council. ~~The Justice Court judge shall be available d~~During the scheduled hours of court operation and the Justice Court judge or clerk shall be in attendance at the court ~~during the regularly scheduled hours of operation~~physically present or immediately available remotely.

(3) Justice Courts shall provide, at a minimum, the following hours of operation:

Number of Average Monthly Filings	Hours Per Day
0-60	1
61-150	2
151-200	3
201-300	4
301-400	5
401-500	6
501 or more	8

(4) The Justice Court judge may schedule the court hours to meet the needs of the litigants and the availability of bailiff and clerk services.

(5) Court hours shall be set at least quarterly and the Justice Court judge shall annually send notice to the Administrative Office of the Courts of the hours which have been set for court operation.

1 | **Rule 3-306.01. Language access definitions in the courts.**

2 | **Intent:**

3 | To define terms used in rules 3-306.01 through 3-306.05.

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

7 | ~~To outline the procedure for certification, appointment, and payment of interpreters for legal~~
8 | ~~proceedings.~~

9 | ~~To provide certified interpreters in legal proceedings in those languages for which a certification~~
10 | ~~program has been established.~~

11 | **Applicability:**

12 | This rule shall apply to terms used in rules 3-306.01 through 3-306.05. ~~legal proceedings in the courts~~
13 | ~~of record and not of record. This rule shall apply to interpretation for non-English speaking people and not~~
14 | ~~to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.~~

15 | **Statement of the Rule:**

16 | ~~(1) Definitions.~~

17 | ~~(1)(A) "Appointing authority" means a judge, commissioner, referee or juvenile probation officer, or~~
18 | ~~delegate thereof.~~

19 | ~~(42)(B) "Approved interpreter" means a person who has been rated as "superior" in testing and has~~
20 | ~~fulfilled the requirements established in paragraph (3).~~

21 | ~~(43)(C) "Certified interpreter" means a person who has successfully passed the examination of the~~
22 | ~~Consortium for Language Access in the Courts and has fulfilled the requirements established in~~
23 | ~~paragraph (3).~~

24 | ~~(44)(D) "Committee" means the Language Access Committee established by Rule 1-205.~~

25 | ~~(45)(E) "Conditionally-approved interpreter" means a person who, in the opinion of the appointing~~
26 | ~~authority after evaluating the totality of the circumstances, has language skills, knowledge of interpreting~~
27 | ~~techniques, and familiarity with interpreting sufficient to interpret the legal proceeding. A conditionally~~
28 | ~~approved interpreter shall read and is bound by the Code of Professional Responsibility and shall~~
29 | ~~subscribe the oath or affirmation of a certified interpreter.~~

30 | ~~(46)(F) "Code of Professional Responsibility" means the Code of Professional Responsibility for Court~~
31 | ~~Interpreters set forth in Code of Judicial Administration Appendix H. An interpreter may not be required to~~
32 | ~~act contrary to law or the Code of Professional Responsibility.~~

33 | ~~(47)(G) "Legal proceeding" means a proceeding before the appointing authority, court-annexed~~
34 | ~~mediation, communication with court staff, and participation in mandatory court programs. Legal~~
35 | ~~proceeding does not include communication outside the court unless permitted by the appointing~~
36 | ~~authority.~~

(18)(H) "Limited English proficiency" means the inability to understand or communicate in English at the level of comprehension and expression needed to participate effectively in legal proceedings.

(19)(I) "Registered interpreter" means a person who interprets in a language in which testing is not available and who has fulfilled the requirements established in paragraph (3) other than paragraph (3)(A)(vi).

(10)(J) "Testing" means using an organization approved by the committee that uses the American Council on the Teaching of Foreign Languages (ACTFL) scale.

~~(2) Language Access Committee. The Language Access Committee shall:~~

~~(2)(A) research, develop and recommend to the Judicial Council policies and procedures for interpretation in legal proceedings and translation of printed materials;~~

~~(2)(B) issue informal opinions to questions regarding the Code of Professional Responsibility, which is evidence of good faith compliance with the Code; and~~

~~(2)(C) discipline court interpreters.~~

~~(3) Application, training, testing, roster.~~

~~(3)(A) Subject to the availability of funding, and in consultation with the committee, the administrative office of the courts shall establish programs to certify and approve interpreters in English and the non-English languages most frequently needed in the courts. The administrative office shall publish a roster of certified, approved, and registered interpreters. To be certified, approved or registered, an applicant shall:~~

~~(3)(A)(i) file an application form approved by the administrative office;~~

~~(3)(A)(ii) pay a fee established by the Judicial Council;~~

~~(3)(A)(iii) pass a background check;~~

~~(3)(A)(iv) provide proof that the applicant is a Utah resident;~~

~~(3)(A)(v) complete training as required by the administrative office;~~

~~(3)(A)(vi) obtain a passing score on the court interpreter's test(s) as required by the administrative office;~~

~~(3)(A)(vii) complete 10 hours observing a certified interpreter in a legal proceeding; and~~

~~(3)(A)(viii) take and subscribe the following oath or affirmation: "I will make a true and impartial interpretation using my best skills and judgment in accordance with the Code of Professional Responsibility."~~

~~(3)(B) A person who is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this rule may be certified without complying with paragraphs (3)(A)(v) through (3)(A)(viii) but shall pass an ethics examination and otherwise meet the requirements of this rule.~~

~~(3)(C) No later than December 31 of each even-numbered calendar year, certified, approved, and registered interpreters shall pass the background check for applicants, and certified interpreters shall complete at least 16 hours of continuing education approved by the administrative office of the courts.~~

~~(4) Appointment.~~

~~(4)(A) Except as provided in paragraphs (4)(B), (4)(C) and (4)(D), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.~~

~~(4)(B) An approved interpreter may be appointed if no certified interpreter is reasonably available.~~

~~(4)(C) A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.~~

~~(4)(D) A conditionally approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:~~

~~(4)(D)(i) the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding; and~~

~~(4)(D)(ii) appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and~~

~~(4)(D)(iii) a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.~~

~~(4)(E) The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the complexity or gravity of the legal proceeding, the potential consequences to the person of limited English proficiency, and any other relevant factor.~~

~~(4)(F) No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person and the state court employee is acting within guidelines established in the Human Resources Policies and Procedures. An approved, registered or conditionally approved interpreter may be appointed if the court staff does not speak the language understood by the person.~~

~~(4)(G) The appointing authority will appoint one interpreter for all participants with limited English proficiency, unless the judge determines that the participants have adverse interests, or that due process, confidentiality, the length of the legal proceeding or other circumstances require that there be additional interpreters.~~

~~(4)(H) A person whose request for an interpreter has been denied may apply to review the denial. The application shall be decided by the presiding judge. If there is no presiding judge or if the presiding judge is unavailable, the clerk of the court shall refer the application to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the denial.~~

111 ~~(5) Payment.~~

112 ~~(5)(A) The fees and expenses for language access shall be paid by the administrative office of the~~
113 ~~courts in courts of record and by the government that funds the court in courts not of record. The court~~
114 ~~may assess the fees and expenses as costs to a party as otherwise provided by law. (Utah Constitution,~~
115 ~~Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3, 78B-1-~~
116 ~~446(3), URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and~~
117 ~~regulations and guidance adopted under that title.)~~

118 ~~(5)(B) A person who has been ordered to pay fees and expenses for language access may apply to~~
119 ~~the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge~~
120 ~~of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after~~
121 ~~the order.~~

122 ~~(6) Waiver. A person may waive an interpreter if the appointing authority approves the waiver after~~
123 ~~determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and~~
124 ~~request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-~~
125 ~~English speaking person, so the appointing authority may reject a waiver.~~

126 ~~(7) Removal from legal proceeding. The appointing authority may remove an interpreter from the legal~~
127 ~~proceeding for failing to appear as scheduled, for inability to interpret adequately, including a self-reported~~
128 ~~inability, and for other just cause.~~

129 ~~(8) Discipline.~~

130 ~~(8)(A) An interpreter may be disciplined for:~~

131 ~~(8)(A)(i) knowingly making a false interpretation in a legal proceeding;~~

132 ~~(8)(A)(ii) knowingly disclosing confidential or privileged information obtained in a legal proceeding;~~

133 ~~(8)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional~~

134 ~~Responsibility and this rule;~~

135 ~~(8)(A)(iv) failing to pass a background check;~~

136 ~~(8)(A)(v) failing to meet continuing education requirements;~~

137 ~~(8)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; and~~

138 ~~(8)(A)(vii) failing to appear as scheduled without good cause.~~

139 ~~(8)(B) Discipline may include:~~

140 ~~(8)(B)(i) permanent loss of certified or approved credentials;~~

141 ~~(8)(B)(ii) temporary loss of certified or approved credentials with conditions for reinstatement;~~

142 ~~(8)(B)(iii) suspension from the roster of certified or approved interpreters with conditions for~~
143 ~~reinstatement;~~

144 ~~(8)(B)(iv) prohibition from serving as a conditionally approved interpreter;~~

145 ~~(8)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for~~
146 ~~reinstatement; and~~

147 ~~(8)(B)(vi) reprimand.~~

~~(9) Complaints.~~

~~(9)(A) Any person may file a complaint about a matter for which an interpreter can be disciplined. A party, witness, victim or person who will be bound by a legal proceeding, may file a complaint about the misapplication of this rule.~~

~~(9)(B) The complaint shall allege an act or omission for which an interpreter can be disciplined or that violates this rule. The complaint shall be in writing and signed and filed with the program coordinator. The complaint may be in the native language of the complainant, which the AOC shall translate in accordance with this rule. The complaint shall describe the circumstances of the act or omission, including the date, time, location and nature of the incident and the persons involved.~~

~~(9)(C) The program coordinator may dismiss the complaint if it is plainly frivolous, insufficiently clear, or does not allege an act or omission for which an interpreter can be disciplined or that does not violate this rule.~~

~~(9)(D) If the complaint alleges that the court did not provide language access as required by this rule, the program coordinator shall investigate and recommend corrective actions that are warranted.~~

~~(9)(E) If the complaint alleges an act or omission for which the interpreter can be disciplined, the program coordinator shall mail the complaint to the interpreter at the address on file with the administrative office of the courts and proceed as follows:~~

~~(9)(E)(i) The interpreter shall answer the complaint within 30 days after the date the complaint is mailed or the allegations in the complaint are deemed true and correct. The answer shall admit, deny or further explain each allegation in the complaint.~~

~~(9)(E)(ii) The program coordinator may review records and interview the complainant, the interpreter and witnesses. After considering all factors, the program coordinator may propose a resolution, which the interpreter may stipulate to. The program coordinator may consider aggravating and mitigating circumstances such as the severity of the violation, the repeated nature of violations, the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.~~

~~(9)(E)(iii) If the complaint is not resolved by stipulation, the program coordinator will notify the committee, which shall hold a hearing. The committee chair and at least one interpreter member must attend. If a committee member is the complainant or the interpreter, the committee member is recused. The program coordinator shall mail notice of the date, time and place of the hearing to the interpreter. The hearing is closed to the public. Committee members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the Committee. The committee may review records and interview the interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not public.~~

~~(9)(E)(iv) The committee shall decide whether there is sufficient evidence of the alleged conduct or omission, whether the conduct or omission violates this rule, and the discipline, if any. The chair shall~~

184 issue a written decision on behalf of the committee within 30 days after the hearing. The program
185 coordinator shall mail a copy of the decision to the interpreter.

186 ~~(9)(E)(v) The interpreter may review and, upon payment of the required fee, obtain a copy of any~~
187 ~~records to be used by the committee. The interpreter may attend all of the hearing except the committee's~~
188 ~~deliberations. The interpreter may be represented by counsel and shall be permitted to make a statement,~~
189 ~~call and interview the complainant and witnesses, and comment on the claims and evidence. The~~
190 ~~interpreter may obtain a copy of the record of the hearing upon payment of the required fee.~~

191 ~~(9)(E)(vi) If the interpreter is certified in Utah under Paragraph (3)(B), the committee shall report the~~
192 ~~findings and sanction to the certification authority in the other jurisdiction.~~

193 ~~(10) Fees.~~

194 ~~(10)(A) In April of each year the Judicial Council shall set the fees and expenses to be paid to~~
195 ~~interpreters during the following fiscal year by the courts of record. Payment of fees and expenses shall~~
196 ~~be made in accordance with the Courts Accounting Manual.~~

197 ~~(10)(B) The local government that funds a court not of record shall set the fees and expenses to be~~
198 ~~paid to interpreters by that court.~~

199 ~~(11) Translation of court forms. Forms must be translated by a team of at least two people who are~~
200 ~~interpreters certified under this rule or translators accredited by the American Translators Association.~~

201 ~~(12) Court employees as interpreters. A court employee may not interpret legal proceedings except~~
202 ~~as follows.~~

203 ~~(12)(A) A court may hire an employee interpreter. The employee will be paid the wages and benefits~~
204 ~~of the employee's grade and not the fee established by this rule. If the language is a language for which~~
205 ~~certification in Utah is available, the employee must be a certified interpreter. If the language is a~~
206 ~~language for which certification in Utah is not available, the employee must be an approved interpreter.~~
207 ~~The employee must meet the continuing education requirements of an employee, but at least half of the~~
208 ~~minimum requirement must be in improving interpreting skills. The employee is subject to the discipline~~
209 ~~process for court personnel, but the grounds for discipline include those listed in this rule.~~

210 ~~(12)(B) A state court employee employed as an interpreter has the rights and responsibilities provided~~
211 ~~in the Utah state court human resource policies, including the Code of Personal Conduct, and the Court~~
212 ~~Interpreters' Code of Professional Responsibility also applies. A justice court employee employed as an~~
213 ~~interpreter has the rights and responsibilities provided in the county or municipal human resource policies,~~
214 ~~including any code of conduct, and the Court Interpreters' Code of Professional Responsibility also~~
215 ~~applies.~~

216 ~~(12)(C) A court may use an employee as a conditionally approved interpreter under paragraph (4)(C).~~
217 ~~The employee will be paid the wage and benefits of the employee's grade and not the fee established by~~
218 ~~this rule.~~

1 **Rules 3-306.02. Language Access Committee.**

2 **Intent:**

3 To outline the responsibilities of the Language Access Committee.

4 **Applicability:**

5 This rule applies to the Language Access Standing Committee of the Judicial Council.

6 **Statement of the Rule:**

7 The Language Access Committee shall:

- 8 (1) research, develop and recommend to the Judicial Council policies and procedures for
9 interpretation in legal proceedings and translation of printed materials;
10 (2) issue informal opinions to questions regarding the Code of Professional Responsibility, which is
11 evidence of good-faith compliance with the Code; and
12 (3) discipline court interpreters as provided by rule 3-306.06.

Rule 3-306.03. Interpreter certification.**Intent:**

To outline the procedure for certification of interpreters for legal proceedings.

Applicability:

This rule shall apply to legal proceedings in the courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.

Statement of the Rule:

(1) Subject to the availability of funding, and in consultation with the committee, the administrative office of the courts shall establish programs to certify and approve interpreters in English and the non-English languages most frequently needed in the courts. The administrative office shall publish a roster of certified, approved, and registered interpreters. To be certified, approved or registered, an applicant shall:

(1)(A) file an application form approved by the administrative office;

(1)(B) pay a fee established by the Judicial Council;

(1)(C) pass a background check;

(1)(D) provide proof that the applicant is a Utah resident;

(1)(E) complete training as required by the administrative office;

(1)(F) obtain a passing score on the court interpreter's test(s) as required by the administrative office;

(1)(G) complete 10 hours observing a certified interpreter in a legal proceeding; and

(1)(H) take and subscribe the following oath or affirmation: "I will make a true and impartial interpretation using my best skills and judgment in accordance with the Code of Professional Responsibility."

(2) A person who is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this rule may be certified without complying with paragraphs (1)(A) through (1)(H) but shall pass an ethics examination and otherwise meet the requirements of this rule.

(3) A person credentialed under this rule has an ongoing obligation to immediately report to the program coordinator any criminal charges or convictions the interpreter has and any Utah State Court cases the interpreter is personally involved in as a party.

(4) When the interpreter speaks a rare language and the courts currently lack credentialed interpreters in that language, the Language Access Committee may, for good cause shown, exempt an interpreter from meeting one or both of the requirements listed in subparagraph (1)(B) and (1)(F). An interpreter seeking an exemption shall make a written request, outlining the reasons for the exemption, to the Language Access Program Coordinator. The Language Access Committee shall consider the request at its next meeting following the request, and may require the interpreter making the request to appear at the meeting or to provide more information.

38 | (5) If an exemption is granted, the interpreter shall meet the conditions set by the committee and shall
39 | apply for an extension of the exemption annually, or as otherwise required by the committee.

40 | ~~(36)~~ No later than December 31 of each even-numbered calendar year, certified, approved, and
41 | registered interpreters shall pass the background check for applicants, and certified interpreters shall
42 | complete at least 16 hours of continuing education approved by the administrative office of the courts.

43 | (7) With the exception of staff interpreters who are employees of the courts, court interpreters,
44 | including those listed on the statewide roster, are independent contractors.

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

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

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

To provide certified interpreters in legal proceedings in those languages for which a certification program has been established.

Applicability:

This rule shall apply to legal proceedings in the courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.

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

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

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

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

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

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

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

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

(1)(E) The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the

37 complexity or gravity of the legal proceeding, the potential consequences to the person of limited English
38 proficiency, and any other relevant factor.

39 (1)(F) No interpreter is needed for a direct verbal exchange between the person and court staff if
40 the court staff can fluently speak the language understood by the person and the state court employee is
41 acting within guidelines established in the Human Resources Policies and Procedures. An approved,
42 registered or conditionally approved interpreter may be appointed if the court staff does not speak the
43 language understood by the person.

44 (1)(G) The appointing authority will appoint one interpreter for all participants with limited English
45 proficiency, unless the judge determines that the participants have adverse interests, or that due process,
46 confidentiality, the length of the legal proceeding or other circumstances require that there be additional
47 interpreters.

48 (2) Court employees as interpreters. A court employee may not interpret legal proceedings except as
49 follows.

50 (2)(A) A court may hire an employee interpreter. The employee will be paid the wages and
51 benefits of the employee's grade and not the fee established by this rule. If the language is a language for
52 which certification in Utah is available, the employee must be a certified interpreter. If the language is a
53 language for which certification in Utah is not available, the employee must be an approved interpreter.
54 The employee must meet the continuing education requirements of an employee, but at least half of the
55 minimum requirement must be in improving interpreting skills. The employee is subject to the discipline
56 process for court personnel, but the grounds for discipline include those listed in this rule.

57 (2)(B) A state court employee employed as an interpreter has the rights and responsibilities
58 provided in the Utah state court human resource policies, including the Code of Personal Conduct, and
59 the Court Interpreters' Code of Professional Responsibility also applies. A justice court employee
60 employed as an interpreter has the rights and responsibilities provided in the county or municipal human
61 resource policies, including any code of conduct, and the Court Interpreters' Code of Professional
62 Responsibility also applies.

63 (2)(C) A court may use an employee as a conditionally-approved interpreter under paragraph
64 (1)(D). The employee will be paid the wage and benefits of the employee's grade and not the fee
65 established by this rule.

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

71 (4) Waiver. A person may waive an interpreter if the appointing authority approves the waiver after
72 determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and

73 request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-
74 English speaking person, so the appointing authority may reject a waiver.

75 (5) Translation of court forms. Forms must be translated by a team of at least two people who are
76 interpreters certified under this rule or translators accredited by the American Translators Association.

77 (6) Payment.

78 (6)(A) The fees and expenses for language access shall be paid by the administrative office of
79 the courts in courts of record and by the government that funds the court in courts not of record. The court
80 may assess the fees and expenses as costs to a party as otherwise provided by law. (Utah Constitution,
81 Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3, 78B-1-
82 146(3), URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and
83 regulations and guidance adopted under that title.)

84 (6)(B) A person who has been ordered to pay fees and expenses for language access may apply
85 to the presiding judge to review the order. If there is no presiding judge, the person may apply to any
86 judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days
87 after the order.

88 (7) Fees.

89 (7)(A) Every three years, the Judicial Council shall review a market survey conducted by the
90 Language Access Program Manager and shall set the fees and expenses to be paid to interpreters during
91 the following three fiscal years by the courts of record. Payment of fees and expenses shall be made in
92 accordance with the Courts Accounting Manual.

93 (7)(B) The local government that funds a court not of record shall set the fees and expenses to be
94 paid to interpreters by that court.

1 **Rule 3-306.05. Interpreter removal, discipline, and formal complaints.**

2 **Intent:**

3 To outline the procedures for interpreter removal and discipline.

4 **Applicability:**

5 This rule shall apply to the Language Access Program Manager, the Language Access Program
6 Coordinator, the Language Access Committee, interpreter coordinators and contract interpreters.

7 **Statement of the Rule:**

8 (1) Removal from legal proceeding. The appointing authority may remove an interpreter from the legal
9 proceeding for failing to appear as scheduled, for inability to interpret adequately, including a self-reported
10 inability, and for other just cause.

11 (2) Discipline.

12 (2)(A) An interpreter may be disciplined for:

13 (2)(A)(i) knowingly making a false interpretation in a legal proceeding;

14 (2)(A)(ii) knowingly disclosing confidential or privileged information obtained in a legal
15 proceeding;

16 (2)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional
17 Responsibility and this rule;

18 (2)(A)(iv) failing to pass a background check;

19 (2)(A)(v) failing to meet continuing education requirements;

20 (2)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; and

21 (2)(A)(vii) failing to appear as scheduled without good cause;

22 (2)(A)(viii) unprofessional behavior toward a client, judge, court staff, court security, or
23 Language Access Committee member; and

24 (2)(A)(ix) being charged with, or convicted of, a crime.

25 (2)(B) Discipline may include:

26 (2)(B)(i) permanent loss of certified or approved credentials;

27 (2)(B)(ii) temporary loss of certified or approved credentials with conditions for reinstatement;

28 (2)(B)(iii) suspension from the roster of certified or approved interpreters with conditions for
29 reinstatement;

30 (2)(B)(iv) prohibition from serving as a conditionally approved interpreter;

31 (2)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for
32 reinstatement; and

33 (2)(B)(vi) reprimand.

34 (3) As long as he or she complies with rule 3-306.04, an interpreter coordinator has the discretion to
35 decline to assign an interpreter listed on the statewide interpreter roster.

36 (4) Filing of Formal Complaints.

37 (34)(A) Any person may file a formal complaint about a matter for which an interpreter can be
38 disciplined. A party, witness, victim or person who will be bound by a legal proceeding, may file a formal
39 complaint about the misapplication of this rule.

40 (4)(B) A formal complaint shall be filed with the Language Access Program Coordinator.
41 However, the Language Access Program Coordinator may file a formal complaint with the Language
42 Access Program Manager, in which case, the program manager will fulfill the program coordinator's
43 responsibilities under this rule.

44 (34)(BC) The complaint shall allege an act or omission for which an interpreter can be disciplined
45 or that violates this rule. The complaint shall be in writing and signed ~~and filed with the program~~
46 ~~coordinator~~. The complaint may be in the native language of the complainant, which the AOC shall
47 translate in accordance with this rule. The complaint shall describe the circumstances of the act or
48 omission, including the date, time, location and nature of the incident, and the persons involved.

49 (5) Investigation by program coordinator.

50 (35)(CA) The program coordinator may dismiss the complaint if it is plainly frivolous, insufficiently
51 clear, or does not allege an act or omission for which an interpreter can be disciplined or that does not
52 violate this rule.

53 (35)(DB) If the complaint alleges that the court did not provide language access as required by
54 this rule, the program coordinator shall investigate and recommend corrective actions that are warranted.

55 (35)(EC) If the complaint alleges an act or omission for which the interpreter can be disciplined,
56 the program coordinator shall mail the complaint to the interpreter at the address on file with the
57 administrative office of the courts and proceed as follows:

58 (35)(EC)(i) The interpreter shall answer the complaint within 30 days after the date the
59 complaint is mailed or the allegations in the complaint are will be deemed to be true and correct. The
60 answer shall admit, deny or further explain each allegation in the complaint.

61 (5)(C)(ii) Unless the program coordinator determines the allegation in the formal complaint to
62 be egregious, the interpreter shall remain on the court interpreter roster until a final decision on discipline
63 has been made.

64 (35)(EC)(iii) The program coordinator may review records and interview the complainant, the
65 interpreter and witnesses. After considering all factors, the program coordinator may propose a
66 resolution, which the interpreter may stipulate to. The program coordinator may consider aggravating and
67 mitigating circumstances such as the severity of the violation, the repeated nature of violations, the
68 potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the
69 effect on court operations.

70 (35)(EC)(iv) When the investigation of the formal complaint is complete, the program
71 coordinator shall notify the interpreter, in writing, of the proposed resolution. Within 15 days of the
72 proposed resolution, the interpreter shall, in writing, either accept the discipline by consent or request a
73 hearing by a panel of the Language Access Committee. If the complaint is not resolved by stipulation, the

74 program coordinator will notify the committee, which shall hold a hearing. If the interpreter fails to respond
75 to the program coordinator's proposed resolution, or fails to request a hearing within 15 days, the
76 interpreter will be deemed to have stipulated to the proposed resolution.

77 (6) Hearing by panel.

78 (6)(FA) The program coordinator shall notify the chair of the Language Access Committee if the
79 interpreter requests a hearing by a panel. The chair of the Language Access Committee shall assign
80 three members of the Committee, including one interpreter, to serve on the panel for the hearing, and
81 shall assign one of the panel members to chair the hearing. The chair of the panel is responsible for
82 sending notice to the interpreter, the complainant and the program coordinator.

83 (6)(GB) The hearing before the panel is private and closed to the public. The hearing shall be
84 recorded. The hearing is informal and is not governed by the Rules of Civil Procedure and the Rules of
85 Evidence. The interpreter, the complainant, and the program coordinator may attend the hearing. The
86 interpreter and the program coordinator may each bring counsel to the hearing. The chair may limit others
87 in attendance to those persons reasonably necessary to the proceedings. The program coordinator and
88 the interpreter may submit exhibits and call witnesses. Panel members and staff may not disclose or
89 discuss information or materials outside of the meeting except with others who participated in the meeting
90 or with a member of the panel.

91 (6)(HC) If any party fails to appear, the panel may proceed on the evidence before it. If the
92 complainant fails to appear, the panel may dismiss the Formal Complaint.

93 (6)(4D) The panel shall determine by a majority whether there is a preponderance of evidence of
94 the alleged conduct or omission, and whether the alleged conduct or omission violates this rule or the
95 Code of Professional Responsibility. Within 30 days, the panel chair will inform the program coordinator,
96 the interpreter, and the complainant, in writing, of its decision and the findings of fact supporting it. The
97 panel may discipline the interpreter as provided under paragraph (2)(B), including permanently removing
98 the interpreter's credentials.

99 (6)(JE) The interpreter may appeal the decision to the Language Access Committee by sending a
100 written request to the program coordinator within 15 days of the date of the panel's decision.

101 (7) Appeal hearing before the Language Access Committee.

102 (7)(KA) The committee chair and at least one interpreter member ~~must~~ shall attend the hearing
103 before the Language Access Committee. If a committee member is the complainant or the interpreter, the
104 committee member is recused. Members of the panel are also recused. The program coordinator shall
105 mail notice of the date, time and place of the hearing to the interpreter and the complainant. At least 6
106 days before the hearing, the interpreter and program coordinator may submit briefs and exhibits, which
107 the committee shall review. The information the committee may consider is limited to information
108 presented to the panel. The hearing is closed to the public. Committee members and staff may not
109 disclose or discuss information or materials outside of the meeting except with others who participated in
110 the meeting or with a member of the Committee. The committee may review records and interview the

111 interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not
112 public.

113 ~~(73)(EB)(iv)~~ The committee shall decide whether there panel is sufficient evidence of the alleged
114 conduct or omission, whether the conduct or omission violates this rule, abused its discretion in making its
115 decision. If the committee determines the panel abused its discretion, the committee may dismiss the
116 Formal Complaint or discipline the interpreter differently as appropriate. If the committee determines that
117 the panel did not abuse its discretion, the interpreter shall be disciplined according to the panel's decision.
118 ~~and the discipline, if any.~~ The chair of the committee, or the chair's designee, shall issue a written
119 decision and analysis on behalf of the committee within 30 days after the hearing. The program
120 coordinator shall mail a copy of the decision to the interpreter. The committee's decision is final.

121 ~~(37)(EC)(v)~~ The interpreter may review and, upon payment of the required fee, obtain a copy of
122 any records to be used by the committee. The interpreter may attend all of the hearing except the
123 committee's deliberations. The interpreter may be represented by counsel and shall be permitted to make
124 a statement, call and interview the complainant and witnesses, and comment on the claims and evidence.
125 The interpreter may obtain a copy of the record of the hearing upon payment of the required fee.

126 ~~(8) (3)(E)(vi)~~ If the interpreter is certified in Utah under ~~Paragraph (3)(B)~~ rule 3-306.03(1), the program
127 coordinator, panel or committee ~~shall~~ may report any final findings and sanction to ~~the~~ other agencies and
128 certification authorities ~~in the other jurisdictions.~~

Rule 4-408.01. Responsibility for administration of trial courts.

Intent:

To designate the court locations administered directly through the administrative office of the courts and those administered through contract with local government.

Applicability:

This rule shall apply to the trial courts of record and to the administrative office of the courts.

Statement of the Rule:

(1) All locations of the juvenile court shall be administered directly through the administrative office of the courts.

(2) All locations of the district court shall be administered directly through the administrative office of the courts, except the following, which shall be administered through contract with county or municipal government: Fillmore, Junction, Loa, Manila, ~~Morgan~~, Panguitch, Randolph, and Salem.

Rule 4-602. Victims' Rights Committees.**Intent:**

To provide consistency in the establishment of the Victims' Rights Committees in accordance with Utah Code Ann. Section 77-37-5.

To establish the Commission on Criminal and Juvenile Justice as the responsible agency for the development of policies and procedures which govern the operation of the Victims' Rights Committees.

Applicability:

This rule shall apply to the judiciary and the Commission on Criminal and Juvenile Justice.

Statement of the Rule:

(1) On or before July 1st of each odd-numbered year, the presiding judge of the district court in each judicial district shall appoint the chair of the Victims' Rights Committee for that judicial district.

(2) The chair of the committee shall have experience in and knowledge of the criminal justice system and shall have an interest in the rights of victims and witnesses. The chair shall not be a member of the judiciary or be employed by the judicial branch of government.

(3) On or before September 1st of each odd-numbered year, the chair shall appoint the members of the Victims' Rights Committee. Members shall consist of: a county attorney, a sheriff, a corrections field services administrator, a juvenile court representative, an appointed victim advocate, a municipal attorney, a municipal chief of police and other representatives as appropriate. Members shall have experience in and knowledge of the criminal justice system and shall have an interest in the rights of victims and witnesses.

(4) The chair may succeed himself or herself at the discretion of the presiding judge. The members of the committee may succeed themselves at the discretion of the chair.

(5) The Committee shall act as a clearinghouse to distribute and standardize information relevant to victims of crime and the services available to them within the judicial district. It shall assume a leadership role in developing an educational program for the public as well as professionals who provide services to victims. Victims who have complaints may submit them in writing to the Committee. The Committee will note them for informational purposes and then forward them to the appropriate agency for action. Minutes of the Committee meetings shall be forwarded to the Commission on Criminal and Juvenile Justice for distribution to local Committees on a statewide basis. The Commission shall also provide minutes of the meetings of the Governor's Council on Victims to the local Committees.

Rule 9-302. Mandatory electronic filing.

Intent:

To provide that documents filed in criminal cases in justice court be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the justice court.

Statement of the Rule:

(1) Except as provided in paragraph (3), pleadings and other papers filed in criminal cases in justice court between July 1, 2016 and December 31, 2016 may be electronically filed using the electronic filer's interface.

(2) Except as provided in paragraph (3), pleadings and other papers filed in criminal cases in justice court on or after December 31, 2016 shall be electronically filed using the electronic filer's interface.

(2)(A) A self-represented party who is not a lawyer may file pleadings and other papers using any means of delivery permitted by the court.

(2)(B) A lawyer whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer shall submit a written request outlining why the exemption is necessary to the Justice Court Administrator.

(3) The electronic filer shall be an attorney of record and shall use a unique and personal identifier that is provided by the filer's service provider.

PUBLIC NOTICE OF COURT RECORDING

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: Jon E. Stanard

LONG TITLE

General Description:

This bill requires that notice be given to the public when court proceedings are being recorded.

Highlighted Provisions:

This bill:

- requires the Judicial Council to direct courts to give notice to the public when court proceedings are being recorded.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-208, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78A-2-208** is amended to read:

78A-2-208. Sittings of courts -- To be public -- Notice to public of recording --

Right to exclude in certain cases.

(1) The sittings of every court of justice are public, except as provided in Subsections ~~[(2) and]~~ (3) and (4).

(2) The Judicial Council shall require that notice be given to the public that the

30 proceedings are being recorded when an electronic or digital recording system is being used
31 during court proceedings.

32 ~~[(2)]~~ (3) The court may, in its discretion, during the examination of a witness exclude
33 any and all other witnesses in the proceedings.

34 ~~[(3)]~~ (4) In an action of divorce, criminal conversation, seduction, abortion, rape, or
35 assault with intent to commit rape, the court may, in its discretion, exclude all persons who do
36 not have a direct interest in the proceedings, except jurors, witnesses and officers of the court.

TAB 4



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester
Date: March 8, 2016
Re: Judge Wayne Cooper's Certification for 2016 Retention Elections

On September 22, 2015, the Judicial Council certified a number of judges for retention election in 2016. Judge Wayne Cooper was among those whom the Council certified, but unfortunately his certification was made erroneously. My records did not reflect the fact that the Clarkston Municipal Justice Court to which he had been appointed closed in 2013. Because Judge Cooper is currently a temporary judge in Newton-Amalga and still being paid for his current term at his old court, this is probably why he returned the papers to certify. This memo is intended to correct the record and reflect that Judge Wayne Cooper is not certified for retention election in 2016.

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

450 South State Street / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / Tel: 801-578-3808 / Fax: 801-578-3843 / email: nancyjs@utcourts.gov

TAB 5



FY 2017 Proposed Judicial Council Budget Plan

Ongoing Spending Plan						
#	New Available Ongoing Funding by Source	Funding Type	Amount	#	Ongoing Spending Plan	FY 17 Request Amount Proposed Amount
1	Ongoing Turnover Savings	Internal Savings	515,000	Budget Obligations		
2	H.B. 207 -- Fourth District Juvenile Court Judge (Rep. Sanpei, D.)	Fiscal Note	341,400	1	Career Track Obligations	332,000
3	H.B. 241 -- Computer Abuse and Data Recovery Act (Rep. Chavez-Houck, R.)	Fiscal Note	15,900	2	4th Juvenile Judge	341,400
4	S.B. 79 Fourth Substitute -- Child Welfare Revisions (Sen. Jackson, A.)	Fiscal Note	7,300	3	Justice Court Administrator	75,000
5	S.B. 124 -- Gang Enhancement Provision Amendments (Sen. Thatcher, D.)	Fiscal Note	5,800	4	4th District Law Clerks (1 of 4 Required FTEs)	91,300
				Ongoing Budget Items Deferred from the August Planning Session		
				5	Volunteer Court Visitor Program	167,500
				6	District Court Program Administrator (.75 FTE to 1.0 FTE)	21,500
				7	Law Clerks (2 FTEs)	182,600
				New Ongoing Budget Requests		
				8	Commissioner Compensation	41,400
				9	EBP Training and Program Evaluation	30,000
				10	Domestic Violence Program Coordinator (.5 FTE to 1.0 FTE)	39,100
				Total Available Ongoing Funds \$ 885,400		
				Total Ongoing Expenditures \$ 1,321,800		

Remaining Available Funds \$ 885,400



FY 2017 Proposed Judicial Council Budget Plan

One-time Spending Plan			
#	Available One-time Funding	Funding Type	Amount
1	One-time Personnel Turnover Savings & Current Expense	Internal Savings	1,311,300

* Computer Replacement Schedule for FY 2016 was funded during FY 2015

Remaining Available Funds \$ 1,311,300

TAB 6



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy Sylvester*
Date: March 7, 2016
Re: Senior Judge Assignments under CJA Rule 3-108

In response to discussions between the Judicial Council and presiding judges about the use of senior judges and the accompanying budgetary considerations, Policy and Planning created two assignment categories under Rule 3-108(3) for the use of senior judges: 1) exigent circumstances and 2) non-exigent circumstances. The enclosed amendments to Rule 3-108 have been approved by the Policy and Planning Committee.

Under the exigent circumstances category in subsection (3)(A), the committee defined exigent circumstances as those that "are unforeseen and result in a prolonged absence or vacancy of a sitting judge, including but not limited to, unexpected retirement, disability, leave of absence, assignment to the bench at a different court level, or death." Exigent circumstances exist up to the point that Management Committee approves a plan for ongoing coverage, which may be around 30 days. The presiding judge must immediately notify the Management Committee chair of an assignment under this category and within 14 days,

develop and present a plan to the Management Committee addressing the need for coverage on an ongoing basis. The plan shall explain why the coverage is needed, describe the efforts the presiding judge has made to find coverage from sitting judges inside and outside the district, and state the expected duration and cost of the senior judge coverage.

In order to assign the senior judge to ongoing coverage, the presiding judge must obtain the Management Committee's approval.

Under the non-exigent circumstances category in subsection (3)(B), the process is largely the same except that the presiding judge may not use a senior judge for ongoing coverage unless he or she first submits—and the Management Committee approves—a plan for using the senior judge. This is in contrast to the exigent circumstances category in that in exigent circumstances the presiding judge has around 30 days' coverage before a plan for ongoing coverage must be in place.

In approving this rule, Policy and Planning also examined Rule 11-201, which has provisions under paragraph (6) for the use of senior judges. The committee determined that the rules are in conflict since Rule 11-201(6) discusses the use of active senior judges in both

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

Senior Judge Assignments under Rule 3-108

March 7, 2016

Page 2

extraordinary and non-extraordinary circumstances. If the Judicial Council is interested in using the amended language of Rule 3-108 to govern these situations, this may be a good time to closely examine what roles the Supreme Court and the Judicial Council should play in the senior judge process and then draft the rules accordingly.

Rule 3-108. Judicial assistance.**Intent:**

To establish the authority, procedure and criteria for judicial assistance.

Applicability:

This rule shall apply to judicial assistance provided by active senior judges and judges of courts of record.

Statement of the Rule:

(1) Criteria for requesting assistance. Judicial assistance shall be provided only for the following reasons:

(1)(A) to prevent the occurrence of a backlog in the court's calendar;

(1)(B) to reduce a critical accumulated backlog;

(1)(C) to handle a particular case involving complex issues and extensive time which would have a substantial impact on the court's calendar;

(1)(D) to replace a sitting judge who is absent because of assignment as a tax judge, illness or to replace the judges in that location because of disqualification in a particular case;

(1)(E) to handle essential cases when there is a vacant judicial position;

(1)(F) to handle high priority cases during vacation periods or during attendance at education programs by the sitting judge, following every effort by that judge to adjust the calendar to minimize the need for assistance and only to handle those matters which cannot be accommodated by the other judges of the court during the absence;

(1)(G) to provide education and training opportunities to judges of one court level in the disposition of cases in another court level; and

(1)(H) in district court, to handle cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration.

(2) Criteria for transferring or assigning judges. The transfer or assignment of judges shall be based upon the following priorities:

(2)(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

(2)(B) active judges before active senior judges with consideration of the following:

(2)(B)(i) active judges from a court of equal jurisdiction in a different geographical division than the court in need, who are physically situated nearest and are most convenient to that court;

(2)(B)(ii) active senior judges from a court of equal jurisdiction to the court in need who are physically situated nearest and are most convenient to that court;

(2)(B)(iii) active judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is most closely related to that court and who are in close proximity to it;

(2)(B)(iv) active judges from a court of equal jurisdiction in a different geographical division than the court in need who are far removed from that court;

(2)(B)(v) active or active senior judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is similar to that court who are not in close proximity;

(2)(C) availability;

(2)(D) expenses and budget.

(3) Assignment of active judges.

(3)(A) In exigent circumstances.

(3)(A)(i) Exigent circumstances are unforeseen and result in a prolonged absence or vacancy of a sitting judge, including but not limited to, unexpected retirement, disability, leave of absence, assignment to the bench at a different court level, or death.

(3)(A)(ii) For purposes of this rule, exigent circumstances generally exist up to 30 days.

(3)(A)(iii) In exigent circumstances, the presiding judge may assign a senior judge temporarily to cover after exhausting all internal coverage options, including seeking coverage from sitting judges inside or outside the district.

(3)(A)(iv) If the presiding judge assigns a senior judge temporarily due to exigent circumstances, the presiding judge shall immediately notify the chair of the Judicial Council's Management Committee.

(3)(A)(v) Within 14 days of assigning a senior judge, the presiding judge shall develop and present a plan to the Management Committee addressing the need for coverage on an ongoing basis. The plan shall explain why the coverage is needed, describe the efforts the presiding judge has made to find coverage from sitting judges inside and outside the district, and state the expected duration and cost of the senior judge coverage.

(3)(A)(vi) The presiding judge shall obtain the Management Committee's approval prior to assigning a senior judge to provide ongoing coverage.

(3)(B) In non-exigent circumstances.

(3)(B)(i) Non-exigent circumstances are those that do not qualify as exigent under subparagraph (3)(A)(i).

(3)(B)(ii) If a presiding judge anticipates the need for senior judge coverage, the presiding judge shall develop and present a plan to the Management Committee addressing the need for coverage on an ongoing basis. The plan shall explain why the coverage is needed, describe the efforts the presiding judge has made to find coverage from sitting judges inside and outside the district, and state the expected duration and cost of the senior judge coverage.

(3)(B)(iii) The presiding judge shall obtain the Management Committee's approval prior to assigning a senior judge to provide coverage under non-exigent circumstances.

(3)(C) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding judge of the district in

74 which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in
75 Rule 6-103(4) of the Utah Code of Judicial Administration, assignment by the supervising tax judge with
76 the approval of the presiding officer of the Council.

77 | (3)(BD) Any active judge of a court of record may serve temporarily as the judge of a court
78 with different jurisdiction in the same or a different judicial district upon assignment by the presiding officer
79 of the Council or assignment by the state court administrator with the approval of the presiding officer of
80 the Council.

81 | (3)(GE) The assignment shall be made only after consideration of the judge's calendar. The
82 assignment may be for a special or general assignment in a specific court or generally within that level of
83 court and shall be for a specific period of time, or for the duration of a specific case. Full time assignments
84 in excess of 30 days in a calendar year shall require the concurrence of the assigned judge. The state
85 court administrator shall report all assignments to the Council on an annual basis.

86 | (3)(DE) Requests for the assignment of a judge shall be conveyed, through the presiding
87 judge, to the person with authority to make the assignment under paragraphs (A) and (B). A judge who is
88 assigned temporarily to another court shall have the same powers as a judge of that court.

89 (4) Notice of assignments made under this rule shall be made in writing, a copy of which shall be
90 sent to the state court administrator.

91 (5) Schedule of trials or court sessions. The state court administrator, under the supervision of the
92 presiding officer of the Council, may schedule trials or court sessions and designate a judge to preside,
93 assign judges within courts and throughout the state, reassign cases to judges, and change the county for
94 trial of any case if no party to the litigation files timely objections to the change.

Rule 11-201. Senior judges.

Intent:

To establish the qualifications, term, authority, appointment and assignment for senior judges and active senior judges.

Applicability:

This rule shall apply to judges of courts of record.

The term "judge" includes justices of the Supreme Court.

Statement of the Rule:

(1) Qualifications.

(1)(A) Senior Judge. To be a senior judge, a judge shall:

(1)(A)(i) have been retained in the last election for which the judge stood for election;

(1)(A)(ii) have voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, shall have recovered from or shall have accommodated that disability;

(1)(A)(iii) demonstrate appropriate ability and character;

(1)(A)(iv) be admitted to the practice of law in Utah, but shall not practice law; and

(1)(A)(v) be eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.

(1)(B) Active Senior Judge. To be an active senior judge, a judge shall:

(1)(B)(i) meet the qualifications of a senior judge;

(1)(B)(ii) be a current resident of Utah;

(1)(B)(iii) be physically and mentally able to perform the duties of judicial office;

(1)(B)(iv) maintain familiarity with current statutes, rules and case law;

(1)(B)(v) satisfy the education requirements of an active judge;

(1)(B)(vi) attend the annual judicial conference;

(1)(B)(vii) accept assignments, subject to being called, at least two days per calendar year;

(1)(B)(viii) conform to the Code of Judicial Conduct, the Code of Judicial Administration and rules of the Supreme Court;

(1)(B)(ix) obtain attorney survey results on the final judicial performance evaluation survey conducted prior to termination of service sufficient to have been certified for retention election regardless whether the survey was conducted for self-improvement or certification;

(1)(B)(x) continue to meet the requirements for certification for judicial retention election as those requirements are determined by the Judicial Council to be applicable to active senior judges;

(1)(B)(xi) undergo a performance evaluation every eighteen months following an initial term as an active senior judge; and

(1)(B)(xii) take and subscribe an oath of office to be maintained by the state court administrator.

(2) Disqualifications. To be an active senior judge, a judge:

(2)(A) shall not have been removed from office or involuntarily retired on grounds other than disability;

(2)(B) shall not have been suspended during the judge's final term of office or final six years in office, whichever is greater;

(2)(C) shall not have resigned from office as a result of negotiations with the Judicial Conduct Commission or while a complaint against the applicant was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause; and

(2)(D) shall not have been subject to any order of discipline for conduct as a senior judge.

(3) Term of Office.

(3)(A) The initial term of office of a senior judge is until December 31 of the second year following appointment. The initial term of office of an active senior judge less than age 75 years is until December 31 of the second year following appointment or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The initial term of office of an active senior judge age 75 years or more is until December 31 of the year following appointment.

(3)(B) A subsequent term of office of a senior judge is for three years. A subsequent term of office of an active senior judge is three years or until December 31 of the year in which the judge reaches age 75, whichever is shorter. The subsequent term of office of an active senior judge age 75 years or more is for one year.

(3)(C) All subsequent appointments begin on January 1. The Supreme Court may withdraw an appointment with or without cause.

(3)(D) The term of office of senior judges and active senior judges in office on November 1, 2005 shall continue until December 31 of the year in which their terms would have expired under the former rule.

(4) Authority. A senior judge may solemnize marriages. In addition to the authority of a senior judge, an active senior judge, during an assignment, has all the authority of the office of a judge of the court to which the assignment is made.

(5) Application and Appointment.

(5)(A) To be appointed a senior judge or active senior judge a judge shall apply to the Judicial Council and submit relevant information as requested by the Judicial Council.

(5)(B) The applicant shall:

(5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered by the Supreme Court; and

(5)(B)(ii) declare whether at the time of the application there is any complaint against the applicant pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.

(5)(C) The Judicial Council may apply to the judicial performance evaluation information the same standards and discretion provided for in Rule 3-111.05. After considering all information the Judicial Council may certify to the Supreme Court that the applicant meets the qualifications of a senior judge or active senior judge and the Chief Justice may appoint the judge as a senior judge or active senior judge.

Judges who declined, under former Rule 3-111, to participate in an attorney survey in anticipation of retirement may use the results of an earlier survey to satisfy Subsection (1)(B)(ix).

(6) Assignment.

(6)(A) With the consent of the active senior judge, the presiding judge may assign an active senior judge to a case or for a specified period of time. Cumulative assignments under this subsection shall not exceed 60 days per calendar year except as necessary to complete an assigned case.

(6)(B) In extraordinary circumstances and with the consent of the active senior judge, the chief justice may assign an active senior judge to address the extraordinary circumstances for a specified period of time not to exceed 60 days per calendar year, which may be in addition to assignments under subsection (6)(A). To request an assignment under this subsection, the presiding judge shall certify that there is an extraordinary need. The state court administrator shall certify whether there are funds available to support the assignment.

(6)(C) An active senior judge may be assigned to any court other than the Supreme Court.

(6)(D) The state court administrator shall provide such assistance to the presiding judge and chief justice as requested and shall exercise such authority in making assignments as delegated by the presiding judge and chief justice.

(6)(E) Notice of an assignment made under this rule shall be in writing and maintained by the state court administrator.

TAB 7

Utah Mediation Best Practice Guide

Broad public confidence in the integrity and fairness of mediation is necessary for the administration of justice and the public’s confidence in mediation as a dispute resolution process. With that goal in mind, a subcommittee of the Utah Judicial Council’s Ad Hoc Committee on Alternative Dispute Resolution (ADR Committee) in 2015 prepared the following document entitled the *Utah Mediation Best Practice Guide*. The *Guide* was promulgated by the Utah Judicial Council on _____, 2016.

This *Guide* is a summary of Utah statutes and rules governing mediation, as well as national standards of best practice for mediators. If there is no citation to a statute, rule, or standard of conduct, the best practice is based on the collective wisdom of experienced mediators.

The Utah Judicial Council intends this *Guide* to be used by Utah mediators, lawyers, parties, and administrators, and included in mediator training programs in Utah. The *Guide* does not have the force of law and is not to be used for disciplinary purposes. It also is not mandatory for adoption by Utah dispute resolution organizations or rosters. Because the *Guide* is not mandatory, the word “should” is used throughout, even though the word “shall” is used in many of the cited statutes, rules, and model standards.

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Abbreviations

Lyons v. Booker refers to *Lyons v. Booker*, 982 P.2d 1142 (Ut. App. 1999),
<http://www.utcourts.gov/opinions/appopin/lyons.htm>.

MS ## refers to the Model Standards of Conduct for Mediators.
http://www.americanbar.org/content/dam/aba/migrated/dispute/documents/model_standards_conduct_april2007.authcheckdam.pdf

MSPFDM # refers to the Model Standards of Practice for Family and Divorce Mediation.
<http://www.americanbar.org/content/dam/aba/migrated/family/reports/mediation.authcheckdam.pdf>

Poly Software v. Su refers to *Poly Software International, Inc. v. Su, et al.*, 880 F. Supp. 1487 (USDC Utah 1995), <http://law.justia.com/cases/federal/district-courts/FSupp/880/1487/1408247/>.

Reese v. Tingey refers to *Reese v. Tingey Construction*, 177 P. 3d 605 (Utah 2008),
<http://www.utcourts.gov/opinions/supopin/Reese2020108.pdf>.

UADRA § 78B-6-# refers to the Utah Alternative Dispute Resolution Act.
http://le.utah.gov/xcode/Title78B/Chapter6/78B-6-P2.html?v=C78B-6-P2_1800010118000101

UCJA R. 4-510.# refers to the Utah Code of Judicial Administration Rule 4.510.
http://www.utcourts.gov/resources/rules/ucja/ch04/4-510_01.htm
http://www.utcourts.gov/resources/rules/ucja/ch04/4-510_02.htm
http://www.utcourts.gov/resources/rules/ucja/ch04/4-510_03.htm
http://www.utcourts.gov/resources/rules/ucja/ch04/4-510_04.htm
http://www.utcourts.gov/resources/rules/ucja/ch04/4-510_05.htm
http://www.utcourts.gov/resources/rules/ucja/ch04/4-510_06.htm

UMA § 78B-10-# refers to the Utah Mediation Act.
http://le.utah.gov/xcode/Title78B/Chapter10/78B-10.html?v=C78B-10_1800010118000101

URCADR R. #, Canon # refers to the Utah Rules of Court-Annexed Alternative Dispute Resolution and Canon of Ethics.
<http://www.utcourts.gov/resources/rules/adr/101.htm>
<http://www.utcourts.gov/resources/rules/adr/102.htm>
<http://www.utcourts.gov/resources/rules/adr/103.htm>
<http://www.utcourts.gov/resources/rules/adr/104.htm>

URPC # refers to the Utah Rules of Professional Conduct.
http://www.utcourts.gov/resources/rules/ucja/ch13/2_4.htm

Standards and Best Practices

I. Integrity and Fairness of Mediation

A mediator should protect the integrity and fairness of mediation.

Best Practices:

1. A mediator should observe high standards of ethical conduct, including those found in the applicable statutes, rules, and case law of Utah, in order to protect the integrity and fairness of mediation. URCADR R. 104, Canon I (a); UCJA R. 4-510.05(4)(A), (B)(ii), and (8).
2. A mediator's ethical duties begin prior to acceptance of the appointment to a particular case and continue throughout all stages of mediation, even after a case has been resolved. URCADR R. 104, Canon I (g).
3. A mediator should be impartial and unbiased and should avoid even an appearance of partiality or bias. UMA § 78B-10-109(6); URCADR R. 104, Canon III (a); MS II.A-C.
4. A mediator should guard against partiality based upon the parties' or other participants' personal characteristics, background, or performance in mediation, or any previous or existing relationship with any party or participant. URCADR R. 104, Canons I (c) and III (a)(2); MS II.B.
5. Upon acceptance of a case and throughout all stages of mediation, a mediator should avoid entering into any financial, business, professional, family, or social relationship, or acquiring any financial or personal interest, which will affect the mediator's impartiality in fact or appearance. URCADR R. 104, Canon I (c); MS II.B.
6. After mediation has concluded, a mediator should avoid entering into any relationship or acquiring any interest, which might reasonably create the appearance that the mediator was influenced during the mediation by anticipation or expectation of the relationship or interest. *Id.*
7. In creating a future relationship with a mediation party or other participant, the mediator should consider factors such as time elapsed following the mediation, the nature of the relationship to be established, and the services to be provided. *Id.*

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8. If a mediator determines that the mediator cannot conduct the mediation in an impartial manner, or if the appearance of partiality is too great, or if requested to do so by a party, the mediator should decline to serve or withdraw. URCADR R. 104, Canon II (e) and (f).
9. A mediator should not use confidential information acquired during mediation to gain advantage, personal or otherwise, or to adversely affect the interests of any party or any other individual or entity. URCADR R. 104, Canon IV (a).
10. Mediators should not be swayed by outside pressure, public clamor, fear of criticism, or self-interest. URCADR R. 104, Canon I (d).
11. A mediator should not use involvement in a particular mediation to enhance the mediator's personal or professional position or status. URCADR R. 104, Canon IV (d).
12. A mediator should promote honesty and candor and should conduct mediation in a manner that encourages informal and confidential exchange among the parties and with the mediator. UADRA § 78B-6-208(1); MS VI.A.4; URCADR R. 104, Canon IV (a). *See also* URCADR R. 103.
13. A mediator should not knowingly misrepresent any material fact or circumstance in the course of mediation. MS VI.A.4.
14. A mediator should conduct mediation in a fair and evenhanded manner and treat all parties and other participants with patience, courtesy, equality, and fairness. A mediator should encourage similar conduct by all participants. URCADR R. 104, Canon III (a) and (c).
15. A mediator should not deny any party the opportunity to be represented by counsel. URCADR R. 104, Canon III (e); UMA § 78B-10-110.
16. A mediator should not conduct a dispute resolution procedure other than mediation (e.g., arbitration), and call it "mediation," in an effort to gain the protection of statutes, rules, or other governing authorities pertaining to mediation. MS VI.A.6.
17. A mediator should not undertake another dispute resolution role in the same matter—for example, changing from the role of mediator to arbitrator—without first fully informing the parties of the implications of the change in role and obtaining their written consent to the change. MS VI.A.8; URCADR R. 101(i).

18. A mediator should be aware of party safety and should take appropriate measures to protect vulnerable parties, including conducting detailed intake (e.g., screening for domestic violence), arranging for a secure location, and allowing for separate meetings or caucuses and separate arrival and departure times for the parties. MSPFDM X.
19. A mediator should take appropriate steps including, if necessary, postponing, withdrawing from, or terminating mediation, if it becomes apparent to the mediator that the mediation is being used to further criminal conduct. MS VI.A.9.
20. A mediator should take appropriate steps including, if necessary, postponing, withdrawing from, or terminating mediation, if the mediator believes that party or other participant conduct, including that of the mediator, jeopardizes conducting mediation consistent with ethical practices. MS VI.C.

II. Self-Determination

A mediator should ensure self-determination of the parties, which is a fundamental principle in mediation.

Best Practices:

1. A mediator should explain to the parties the principle of self-determination, which includes the right to come to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome. MS. I. *See also* URCADR R. 104, Canon VIII (a).
2. A mediator should explain to the parties the importance of consulting legal counsel and other professionals to help the parties make informed choices. MS I.A.2; URCADR R. 104, Canon III (e).
3. A mediator should inform parties that mediation is voluntary and that a party has the right to withdraw at any stage of the proceeding and is under no obligation to reach an agreement. URCADR R. 101(b); R. 104, Canon III (h).
4. If mediation is conducted pursuant to a mandatory mediation statute or program, the mediator should inform the parties of the requirements of that statute or program. *Id.*
5. If a mediator becomes aware that a party may not have the present capacity to exercise self-determination, the mediator should explore accommodations that can be made to allow the party to exercise self-determination. MS VI.A.10.

6. A mediator should be aware of and avoid mediator behaviors that impact party self-determination. This includes behaviors or process choices that produce: undue pressure or otherwise coerce parties to make particular substantive decisions; create the appearance that the mediator can make substantive decisions or adjudicate the parties' dispute; or prevent or reduce the parties' ability to access resources to make informed decisions or choose other dispute resolution processes. MS I.A; URCADR R.104, Canon VIII (b).
7. A mediator should not undermine self-determination by any party for reasons such as higher settlement rates, mediator ego, larger fees, or outside pressures from court personnel, program administrators, provider organizations, the media, or others. MS I.B.
8. A mediator should serve as an impartial facilitator, assisting the parties in defining and narrowing the issues and encouraging each party to examine the dispute from multiple perspectives, without the mediator undertaking to decide any issue, make findings of fact, or impose any agreement. URCADR R. 101(c).
9. A mediator should not attempt to usurp or otherwise assume the role of counsel for any party. URCADR R. 104, Canon VIII (c).
10. A mediator should be cautious when rendering evaluations or opinions and should make it clear that such evaluations or opinions are not binding on the parties. *See generally* URCADR R. 101(c).
11. A mediator should not make substantive decisions for any party that affect the matter at issue. URCADR R. 104, Canon VIII (b).
12. A mediator may make suggestions about settlement and may draft proposals for consideration by the parties, but all decisions are to be made voluntarily by the parties, without duress created by the mediator. *Id.*
13. A mediator should not coerce a settlement or otherwise pressure any party or the attorney for any party into accepting an agreement. URCADR R. 104, Canon VIII (b).

III. Competence and Efficiency

A mediator should have the necessary competence to satisfy the reasonable expectations of the parties to provide a process that is evenhanded and efficient.

Best Practices:

1. A mediator should have specific appropriate mediation training before serving as a mediator. UADRA 78B-6-205(3)(h)(ii); MS IV.A.1 and 2.
2. A mediator should mediate only when the mediator has the necessary subject matter competence to satisfy the reasonable expectations of the parties. MS IV.A.
3. A mediator should be aware of and disclose, if asked to do so, the mediator's qualifications to mediate a dispute, e.g., the mediator's process, style, and methodology of mediation, including whether or not the mediator uses facilitative, analytical, evaluative, and/or directive methodologies in mediation. *See* UMA § 78B-10-109(3); URCADR R. 104, Canon I (j).
4. A mediator should retain a written copy of the mediator's disclosure of qualifications and experience.
5. A mediator should schedule and conduct mediation in a manner that is timely and efficient and respects the needs of the parties. URCADR R. 104, Canon I (b) and (f); URCADR R. 104, Canon III (b); MS VI.A.1 and 2.
6. A mediator should use best efforts to ensure that mediation is not utilized to abuse or harass parties or other participants or to delay or disrupt any proceedings. URCADR R. 104, Canon I (f).
7. If, during the course of a mediation, a mediator determines that he or she cannot conduct the mediation competently for any reason, the mediator should discuss that determination with the parties as soon as is practical and take appropriate steps to address the situation, including, but not limited to, withdrawing or requesting appropriate assistance. MS IV. B.
8. A mediator should not conduct mediation if the mediator is impaired for any reason, e.g., by drugs, alcohol, medication, mental health issues, or otherwise. MS IV.C.
9. A mediator should use best efforts to be aware of cultural issues and differences involved in mediation. URCADR R. 104, Canon V; MS IV.A.1.

10. A mediator should conduct mediation so as to respect the parties' divergent values and negotiation styles. URCADR R.104, Canon V.
11. A mediator should not practice, condone, facilitate, or promote any form of discrimination toward parties or their attorneys. *Id.*
12. If the mediator determines that the parties are unable or unwilling to participate meaningfully in mediation, the mediator should suspend or terminate the mediation and minimize the unnecessary expenditure of fees, time, or emotional stress for the parties. URCADR R. 101(g); MS VI.C.

IV. Confidentiality

A mediator should maintain the confidentiality of all information obtained in mediation, unless otherwise agreed to by the parties or required by law.

Best Practices:

1. A mediator should maintain the confidentiality of mediation communications, which may occur before, during, or after mediation, regardless of whether the mediation communications are verbal, nonverbal, or written. UMA § 78B-10-108; UADRA § 78B-6-208; URCADR R. 103; URCADR R. 104, Canon IV; MS V; *Lyons v. Booker*; *Reese v. Tingey*.
2. A mediator should understand the differences between confidentiality and privilege and that confidentiality is broader than privilege. The obligation of confidentiality requires the mediator and, by agreement, the parties and other participants in mediation to protect and preserve the privacy of mediation communications. The requirement of privilege prohibits the admission into evidence of mediation communications in a "proceeding" such as litigation or arbitration. UMA § 78B-10-108.
3. A mediator should discuss with the parties and other mediation participants the extent to which they will maintain the confidentiality or privilege of information they obtain in mediation. URCADR R. 104, Canon IV (b) and (c); MS V.C. and D; UMA § 78B-10-108.
4. If asked, a mediator should discuss with the parties and other mediation participants the mediator's document retention policies, including about the mediator's notes and party-supplied documents.

5. In a written agreement to mediate, a mediator should create a duty of confidentiality for the parties and other participants in mediation. UMA § 78B-10-108; UADRA § 78B-6-208(4).
6. A mediator should be aware of the statutory and other exceptions to confidentiality and privilege (e.g., communications evidencing abuse or neglect of a child or vulnerable adult must be disclosed), and should explain these exceptions to the parties and other mediation participants. UMA § 78B-10-104; UADRA § 78B-6-208(4) and (5); UCJA R. 4-510.05; *Reese v. Tingey*.
7. The agreement to mediate should include any relevant exceptions to confidentiality or privilege. UMA § 78B-10-108; UADRA § 78B-6-208(4).
8. A mediator should maintain the confidentiality of parties' ex parte communications, whether provided in pre-mediation briefs and other documents or verbally during caucuses. URCADR R. 104, Canon IV (g).
9. A mediator should refuse to disclose a mediation communication, the mediator's notes, and mediation records, unless ordered by a court to do so. URCADR R. 104, Canon IV (e) and (h); UMA § 78B-10-104(2)(b).
10. If the mediator is subpoenaed to testify or produce documents in a proceeding, and if the mediator believes that compliance with the subpoena would violate the obligation to maintain confidentiality in mediation, the mediator should not testify or produce documents without an order of the court. UMA § 78B-10-104(2)(b); URCADR R. 104, Canon IV (h); UCJA R. 4-510.05(7); MS V.A.2.
11. When required, a mediator should report to the assigned judge or to a mediation organization that mediation has occurred and whether a settlement was reached. UMA § 78B-10-107; UADRA § 78B-6-208(6).
12. When mediation communications are disclosed for research, training, and statistical records, a mediator should render anonymous information about the parties. URCADR R. 101; URCADR R. 104, Canon I (a) and Canon IV (g); MS V and IX.A.

V. Agreement to Mediate

A mediator should prepare and provide to the parties and other participants a written agreement to mediate, to be signed by them before mediation begins.

Best Practices:

1. A mediator should discuss the agreement to mediate with the parties and other participants before mediation begins and require all participants to sign the agreement. URCADR Rule 104, Canon I (k).
2. An agreement to mediate should:
 - a. Describe mediation as a facilitated negotiation process in which the parties make free and informed choices as to the outcome of their dispute. MS 1.
 - b. Inform the parties that they may withdraw from mediation at any time and they are not required to reach an agreement in mediation. URCADR Rule 104, Canon III (h).
 - c. Describe the requirements of confidentiality or privilege (including statutory mandatory disclosure exceptions) that apply to mediation. URCADR Rule 104, Canon IV (c).
 - d. Set forth the fee arrangement between the mediator and the parties. URCADR Rule 104, Canon I (l).
 - e. Explain that, if the mediator is an attorney, the mediator will not offer legal advice and is not representing the parties, but rather is serving as a third-party neutral. URPC 2.4(b).
 - f. Explain that, if the mediator is a therapist or counselor, the mediator is not entering into a therapeutic relationship with the parties, but rather is serving as a third-party neutral.
 - g. Explain that, because the mediator is serving as a third-party neutral for all parties, the mediator is not a fiduciary for any party.
 - h. Inform the parties that they can be represented by attorneys and can consult with attorneys, tax advisors, financial advisors, therapists, and other professionals or persons to help them make informed decisions. MS I.B.

3. A written agreement to mediate should be signed by the parties and other participants in mediation. URCADR R. 104, Canon IV (c).
4. The mediator should retain a copy of the signed agreement to mediate.

VI. Conflicts of Interest

A mediator should be impartial with regard to mediation parties and other participants, as well as to the subject matter and outcome of mediation.

Best Practices:

1. A mediator should avoid a conflict of interest and the appearance of a conflict of interest during and after mediation. MS III.A.
2. A conflict of interest includes a financial or personal interest in the outcome of the mediation, an interest in the subject matter of the mediation, and an existing or past financial, business, professional, family, or social relationship with a mediation party, attorney, or other participant in the mediation. UMA § 78B-10-109 (1)(a); URCADR R. 104, Canon II (a) and (b); MS III.A and B.
3. A mediator, before mediation, should make reasonable efforts to determine whether any potential conflict of interest might reasonably create an appearance of partiality or bias. UMA § 78B-10-109 (1)(a); URCADR R. 104, Canon II (a) and (b); MS III.A and B.
4. A mediator should disclose relevant facts about a potential conflict of interest as soon as practical before mediation, or during mediation if such facts become known later. UMA § 78B-10-109 (1)(b); MS III (C) and (D); URCADR R. 104, Canon II (c) and (d).
5. A mediator should disclose every appearance of a conflict of interest even if, in the judgment of the mediator, it poses no obstacle to the mediator's impartiality. This determination is made by the parties and their attorneys, and not by the mediator. UMA § 78B-10-109 (6); URCADR R. 104, Canon II (d); MS III.D.
6. The disclosure of potential conflicts of interest should be in writing, and the mediator should retain a copy of the disclosure.
7. A mediator, after full disclosure of a potential conflict of interest to the parties, may proceed with mediation if all parties agree. URCADR R. 104, Canon II (d); MS III (D); UMA § 78B-10-109(6).

8. Although the parties may waive a mediator's conflict of interest, the mediator's impartiality should never be compromised.
9. The parties' waiver of a mediator's conflict of interest should be in writing signed by the parties, and the mediator should retain a copy of the signed waiver.
10. A mediator should withdraw immediately from mediation, if the mediator believes that an interest or relationship might reasonably be viewed by a party as undermining the integrity of the mediation. If the mediator was appointed by the Utah ADR Director, the mediator immediately should notify the Director. URCADR R. 104, Canon I(c); URCADR R. 104, Canon II (e); MS III (E).
11. A mediator should withdraw from mediation if a party requests the mediator to do so. URCADR R. 104, Canon II (f).
12. A mediator, after mediation is concluded, should not represent any mediation party in connection with the same or substantially factually related matter, unless all parties to the mediation consent in writing after full disclosure. *Poly Software International v. Su*.
13. A mediator who holds a professional license should comply with the rules of professional conduct of that profession. A mediator who is an attorney should comply with the applicable rules of professional conduct of every state and federal Bar of which the mediator is a member. A mediator who is an attorney in Utah should comply with the URPC, including URPC R. 1.12 and 2.4.

VII. Final Agreement

The parties' agreement reached in mediation should be reduced to writing and signed by the parties in order to be binding and enforceable in court.

Best Practices:

1. A mediator should discuss with the parties that verbal agreements in mediation, that are not memorialized in a writing signed by the parties, are not enforceable in court. *Reese v. Tingey*.
2. In the event of settlement, a mediator may prepare and should facilitate the preparation of appropriate settlement documents and the prompt and appropriate handling of those documents. URCADR R. 101(e).

3. If attorneys participate in mediation, they should draft the final agreement.
4. If disputes arise in drafting the terms of a final written agreement, the mediator should facilitate further negotiation to help the parties achieve a mutually acceptable final agreement.
5. If attorneys draft the final written agreement, they should sign the agreement to assure they have approved the agreement.
6. With the agreement of the parties, a mediator may prepare a final agreement or memorandum of understanding, if the mediator has the experience or training to do so. In drafting a mediated settlement agreement or memorandum of understanding, the mediator should memorialize only the terms of the parties' agreement. MSPFDM VI E.
7. A mediator should advise a represented party who participates in mediation without the presence of the party's attorney not to sign a final agreement until the party's attorney reviews and approves the agreement. MS I.A.2.
8. A mediator should advise an unrepresented party to seek independent legal advice before signing a final agreement. MS 1.A.2.
9. If possible, the mediator should retain a copy of the signed final agreement.
10. A mediator, who is an attorney in Utah ("attorney-mediator"), in a mediation in which unrepresented parties have fully resolved all issues, may prepare documents that memorialize and implement the parties' agreement, if:
 - a. the attorney-mediator obtains the informed written consent of all parties;
 - b. the attorney-mediator recommends that each party seek independent legal advice before executing the documents; and
 - c. the attorney-mediator informs the court of the attorney-mediator's limited representation of the parties for the sole purpose of obtaining court approval of the documents. URPC 2.4.

VIII. Fees and Other Charges

A mediator should be transparent and clear about fees and other charges so that parties completely understand what they will be paying.

Best Practices:

1. The fee arrangement should be stated in a written agreement to mediate. URCADR R. 104, Canon I (l).
2. A mediator should provide each party or each party's representative with accurate and complete information about the mediator's fees, expenses, and any other charges that may be incurred in connection with mediation. MS VIII.A.
3. A mediator should not charge fees in a manner that impairs a mediator's impartiality. MS VIII.B.
4. While a mediator may accept unequal fee payments from the parties, a mediator should not use fee arrangements that impair the mediator's impartiality. MS VIII.B.2.
5. A mediator should not enter into a fee agreement which is contingent upon the outcome of the mediation or the amount of the parties' settlement. MS VIII.B.1.

IX. Terminating or Suspending Mediation

A mediator should suspend or terminate mediation in order to uphold the integrity and fairness of mediation or where required by law.

Best Practices:

1. A mediator should inform the participants that they may withdraw from and terminate mediation at any time without being required to reach an agreement. URCADR R. 104, Canon III (h).
2. A mediator should exercise reasonable diligence and effort to assure parties their mediation is not terminated prematurely. URCADR R. 104, Cannon III.
3. A mediator should terminate mediation, if the mediator:
 - a. becomes aware of a conflict of interest that might reasonably be viewed as undermining the integrity of mediation, MS III.E;

- b. is not able to conduct mediation in a competent, fair, or impartial manner, MS I.A;
 - c. becomes aware that mediation is being used to further criminal conduct, MS VI.A.9;
 - d. becomes aware of domestic abuse or violence between the parties that could jeopardize the mediation, MS VI.B;
 - e. believes that the conduct of any participant jeopardizes the mediation, MS VI.C;
 - f. has a reasonable belief that a party appears to have difficulty comprehending or participating in mediation, and believes reasonable adjustments and accommodations for that party cannot be made, MS VI.A.10; or
 - g. believes that the parties are no longer able to participate in a meaningful mediation, or that it is unlikely that a reasonable agreement is possible, URCADR R. 101(g).
4. A mediator should not terminate or suspend a mediation and undertake an additional dispute resolution process (e.g., arbitration) in the same matter without the informed written consent of the parties, and then only after the mediator informs the parties of the implication of the change in the dispute resolution process. MS VI.A.8.

X. Advertising and Solicitation

A mediator should be truthful and not misleading when advertising, soliciting, or otherwise communicating the mediator's qualifications, experience, services, and fees.

Best Practices:

- 1. A mediator should accurately represent the mediator's qualifications and experience. In an advertisement or other communication, a mediator may make reference to meeting state, national, or private organizational qualifications, only if the entity referred to has a recognized procedure for qualifying mediators and the mediator has been duly granted the requisite status. URCADR R. 104, Canon I (j); MS VII.A.2.
- 2. A mediator should refrain from making promises or guarantees of results in communications, such as business cards, stationery, or computer-based communications. A mediator should not advertise statistical settlement data or

settlement rates.. URCADR R. 104, Canon I (i); MS VII.A.1.

3. A mediator should not directly contact a party to solicit selection in a particular case, if the party is represented by an attorney. URCADR R. 104, Canon I (h).
4. A mediator should not solicit in a manner that gives an appearance of partiality for or against a party or otherwise undermines the integrity of mediation. MS VII.B.
5. A mediator should not communicate to others, in promotional materials or through other forms of communication, the names of persons served in prior mediations without their permission. MS VII.C.

XI. Advancement of Mediation

A mediator should act in a manner that advances the practice of mediation.

Best Practices:

1. A mediator should advance the practice of mediation by:
 - a. fostering diversity within the field of mediation, MS IX.A.1;
 - b. striving to make mediation accessible by performing pro bono or reduced-rate mediation services, MS IX.A.2;
 - c. collaborating with the state and federal judiciary, the Utah State Bar, public and private institutions, and other mediators to make mediation accessible and affordable, URCADR R. 104, Canon I (a); MS IX.A.2;
 - d. participating in research, writing articles, and presenting programs designed to improve the skills of those engaged in the practice of mediation, MS IX.A.3;
 - e. participating in outreach and educational efforts to assist the public in understanding and appreciating mediation, including different styles and methodologies of mediation, MS IX.A.4; and
 - f. collaborating with, assisting, and mentoring those who aspire to be mediators or who are new to the field of mediation, MS IX.A.5.
2. A mediator should work with and seek to learn from other mediators to improve the practice of mediation. MS IX.B.

TAB 8

GAL OVERSIGHT COMMITTEE



Administrative Office of the Courts

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

April 20, 2016

Daniel J. Becker
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Stacey M. Snyder, Guardian ad Litem, Director on behalf of GAL oversight Committee

DATE: April 12, 2016

RE: Guardian ad Litem Oversight Committee Member Recommendation

Currently, there is one vacancy on the Guardian ad Litem Oversight Committee that was created by the resignation of Michael Jorgensen. Requests for potential candidates were sent out and two applicants submitted resumes for consideration.

On April 12, 2016, the Judicial Council Management Committee recommended that **Jason B. Richards** be appointed. A summary of Mr. Richards's qualifications is below.

Jason B. Richards

- Contract public defender with Weber County – exclusively representing parents in state child welfare matters
- Private practice attorney with Richards Law Group
- Member of Parental Defense Alliance of Utah
- Member of Utah State Bar, Juvenile section

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

**STANDING EDUCATION
COMMITTEE**



Administrative Office of the Courts

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

April 4, 2016

Daniel J. Becker
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Management Committee/Judicial Council

FROM: Tom Langhorne

RE: Standing Education Committee Appointments

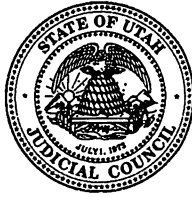
Rule 1-205 requires the Standing Education Committee to be populated, in part, with, "...two court clerks from different levels of court and different judicial districts...".

This is a request to fill a current vacancy for one of those two clerk of court positions. During the last clerks of court meeting, Ms. Lynn Wiseman, the 2nd District Juvenile Clerk of Court, was nominated by that group. The Standing Education Committee subsequently approved her nomination as well.

Lynn started with the courts in 2004 as a Deputy Court Clerk, working in court assigned to Judge Bachman and later to Judge Iwasaki. In July, 2005 she was selected as part of the original CARE Specialist group during turnkey to the CARE system. She was promoted to Case Manager in 2008 to oversee the Second District Drug Court Programs. When that district availed itself of the benefit of a Training Coordinator in 2011, Lynn was selected for that position and worked with the initial training of their new Judicial Assistants as well as ongoing training of CARE releases. Since September of 2014, Lynn has served as the Second District Juvenile Court as Clerk of Court. She has substantially completed our Michigan State University Judicial Administration Program. Interestingly, away from court, she serves as co-crew chief on a jet funny car.

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efficient, and independent system for the advancement of justice under the law.

**COURTS FACILITIES
PLANNING COMMITTEE**



Chief Justice Matthew B. Durrant
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council Management Committee
From: Courts Facility Planning Committee
Date: April 19, 2016
Re: Courts Facility Planning Committee Membership

Judge Charles Behrens has served as the Chair of the Facility Planning Committee for the past three years and requested to be relieved from that appointment. The Committee is requesting Judge Samuel McVey be appointed by the Judicial Council as the new Chair. Judge McVey has agreed to serve as Chair for his second term on the Committee.

The Facilities Planning Committee is also requesting the reappointment of Judge Charles Behrens representing the Juvenile Court to a second term on the Committee. Judge Behrens has expressed interest in continuing to serve on the Committee for a second term.

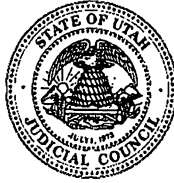
The Facilities Planning Committee is requesting the reappointment of Judge Samuel McVey representing the District Court to a second term on the Committee. Judge McVey has expressed interest in continuing to serve on the Committee for a second term.

We are requesting the Judicial Council Management Committee consider these reappointment and change in the Chair position on the Facility Planning Committee and forward his name to the Judicial Council for consideration.

Thank you for your consideration.

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Efficient, and independent system for the advancement of justice under the law.

**LANGUAGE ACCESS
COMMITTEE**



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy D. Sylvester*
Date: April 13, 2016
Re: Language Access Committee Proposed New Member

The juvenile court judge position on the Judicial Council's Standing Committee on Language Access was recently vacated. The Board of Juvenile Court Judges recommended that Judge Michael Leavitt from the Fifth District Juvenile Court be appointed to the position and the Management Committee made the same recommendation to the Council at its April 12 meeting.

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efficient, and independent system for the advancement of justice under the law.

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