

Tab 4



Alex G. Peterson

Executive Director, JCC

Colonel, USMC (Ret.)

Born in Cali, Colombia and raised in Carbon County and Holladay, Utah, Alex joined the Marine Corps in 1987 after graduating from Olympus H.S. He received a B.B.A. in Accounting from the Univ. of Oklahoma in 1989. At the Univ. of Utah, he was on Law Review, received a J.D., and graduated with honors in 1992. He graduated with honors from Marine Officer training and Naval Justice School in 1993. He initially represented Marines in domestic, estate, and consumer law matters, and was sent to Oklahoma in response to the bombing of the Alfred P. Murrah Federal Building. Then as a military prosecutor, he tried cases involving drugs, sexual assaults, aggravated assaults and larcenies.

Assigned to the Pentagon in 1996 as the Aide to the Navy Judge Advocate General, he traveled globally to Navy and Marine Bases, and was sent to foreign countries to teach international law and criminal law courses including Argentina, Honduras, Nicaragua, and Italy. At the Pentagon, he also advised on intra-department issues such as General officer ethics investigations and professional responsibility for Navy and Marine lawyers. He advised on inter-agency issues like the El Paso border shooting incident and the Aviano Cable-car tragedy and trial. In 1998, he became the career manager for Marine Corps legal personnel, where he oversaw legal personnel assignments and Marine legal organizational issues.

In 2001, he graduated with honors from TJAGSA at the University of Virginia with a Master of Laws (L.L.M.) in International and Operational Law. He then became the legal advisor for Marine Corps Forces, South in Miami, FL, where he reviewed Marine operations throughout Latin America. He was also selected as the ABA 2001-2002 Marine Corps Young Lawyer of the Year. In 2002, he became an assistant legal advisor for U.S. Southern Command where his legal practice was Plan Colombia, International Agreements for deployed US forces, and command operational lawyer that included supporting Haiti relief efforts and the establishment of the Guantanamo Detention facility. In 2003, his article "Order out of Chaos: Domestic Enforcement of the Law of Internal Conflict" 171 Mil. L. Rev. 1 (2002) received the ABA, Standing Committee on Armed Forces' Law, Keith E. Nelson Distinguished Service Award.

As a LtCol in 2005, he deployed to combat as the legal advisor to Camp Taqqaddum, Iraq. In 2006, he returned to combat as a senior legal advisor for all Marine Forces in Iraq. During this time, he was also Officer-in-Charge, Legal Service Support Team – Iraq with detachments all over the Anbar Province, and the Rule of Law Coordinator responsible for re-establishing the provincial criminal justice system. On return, he was responsible for legal planning, manning and training for Marine forces deploying to Afghanistan.

In 2009, he moved to Ft. Lauderdale, FL as the Commanding Officer of U.S. Embassy Security Guards, where he travelled extensively in South America. In 2010, he became the legal advisor for the largest Marine Corps Base in the U.S., providing legal advice and coordinating legal services to the 29,000+ members stationed at Twenty-nine Palms, CA. In 2013, he retired from the Marines as a Colonel. He returned to private practice as a partner at Peck Peterson, LLP, where he provided employment law advice and civil rights litigation in Utah until 2017. He assumed his current position as the Executive Director of the Utah Judicial Conduct Commission in January 2017.

Alex is married to the former Jaqualin Friend of Salt Lake City, Utah. They live in Kamas and have two children: Erin and Alexander. He is involved in the community as a Youth Soccer Coach, Vice Chair of the Summit County Library Board, Chairman of the non-profit, Birankai N.A., member of Combat Veterans Motorcycle Association, American Legion, Veterans of Foreign Wars and WarriorPointe. He is also a 6th black belt, Martial Arts instructor.

(Revised: 21 June 2017)

Q1 What resources do you refer people to or use to help people with their domestic court case? (choose all that apply)

Answered: 37 Skipped: 0

Answer Choices	Responses	
Court Website	81.08%	30
OCAP	91.89%	34
Court Forms	67.57%	25
Self-Help Center	75.68%	28
State Law Library	32.43%	12
Public Library	13.51%	5
Legal Clinic	72.97%	27
Private Attorney	13.51%	5
Low cost or reduced-fee attorney	62.16%	23
Notario	0.00%	0
Friend or Family	2.70%	1
Court Interpreter	24.32%	9
Court Staff	29.73%	11
Other (please specify)	10.81%	4
Total Respondents: 37		

Q2 Which of the resources are most useful to you in helping others? (choose all that apply)

Answered: 37 Skipped: 0

Answer Choices	Responses	
Court Website	70.27%	26
OCAP	72.97%	27
Court Forms	59.46%	22
Self-Help Center	67.57%	25
State Law Library	21.62%	8
Public Library	0.00%	0
Legal Clinic	51.35%	19
Private Attorney	8.11%	3
Low cost or reduced-fee attorney	35.14%	13

Notario	0.00%	0
Friend or Family	2.70%	1
Court Interpreter	13.51%	5
Court Staff	13.51%	5
Other (please specify)	10.81%	4
Total Respondents: 37		

Q3 What challenges or barriers do you see for the people you help? (choose all that apply)

Answered: 37 Skipped: 0

Answer Choices	Responses	
Cost	72.97%	27
Finding the correct forms	62.16%	23
Completing the court forms	86.49%	32
Time	40.54%	15
Rules / court procedures	54.05%	20
Other party (or their attorney)	29.73%	11
Words and terms used in paperwork and in court	64.86%	24
Language (English is not their native language)	62.16%	23
They are unable to read or write	21.62%	8
The are unable to use or uncomfortable using a computer	62.16%	23
They are afraid of government agencies	27.03%	10
How complicated the legal system is	62.16%	23
Serving papers on the other party	48.65%	18
Mediation	18.92%	7
Divorce classes	10.81%	4
Court hearings	18.92%	7
Unhelpful or hostile court staff	37.84%	14
Judge	10.81%	4
Commissioner	10.81%	4
Other (please describe)	16.22%	6
Total Respondents: 37		

Q4 What would make things easier for the people you work with to get through the

court process in their domestic cases?

Answered: 37 Skipped: 0

**Q5 I want you to know this about the court
experience for the people I help:**

Answered: 29 Skipped: 8

Survey of Service Providers

4. What would make things easier for the people you work with to get through the court process in their domestic cases?

The Court website is a little confusing to use. I think the OCAP and self help section needs to have its own section on the front page. It is a little hard to figure out where to go and what to do. It isn't as user friendly as it should be. Good information on it but hard to find. The court clerks and advocates need to do some training together. Often the information that is given is confusing.

It would be easier if Paralegals could help patrons fill out their forms or instruct them how to do it.

As simple as it is for us to fill out OCAP, it confuses people. Maybe if there was a legal clinic for victims where they are taught how to use OCAP and fill out forms. It can take us an hour to fill everything out or more when if they did it at home, it may take them less time.

Being able to file the paperwork closer to home. Currently, a person in Santaquin or Goshen has to drive clear to Provo to file for a civil protective order. There is a District Court in Spanish Fork but the petitioner has to drive to Provo. Wording the questions so people know exactly what they are supposed to write. "petitioner and respondent" is confusing to them. One question asks "do you want to protect your address" which makes some people think differently than what you are intending. They want their HOUSE protected, not their address kept secret. This question is very misleading.

Attorney review of initial documents would help so people aren't having to start over with amended petitions because of things like imputing income for the other party for child support or unrealistic and a way for pro se parties to drop of documents for service to the other party. If the court grants a waiver of the service fee it would be a lot easier for people if they could just drop off a service packet of their initial documents here at the court. Maybe similar to the procedure for protective order service.

Probably have someone sit with them and walk them through it

I think many people feel overwhelmed with the idea that the system is complicated and that they do not have the benefit of having the ability to pay for assistance. So processes being as clear and easy and accessible as possible is something that would help a lot of people.

Check paperwork more thoroughly. Help people understand better what they need to do to go about paperwork process to help them feel more comfortable.

Easier access to court forms online. Thorough directions from people at the court house that work with those seeking legal help and representing themselves in court. Someone available to help with correctness of work.

Walking them through their court paperwork and explaining the missing pieces. The court clerk when receiving documents could [review] them and note what information is missing.

Legal clinics held in remote areas.

everything we are working on now!

Low cost or no cost counsel, people need legal advise.

Perhaps a class to introduce them to the processes to expect, the court lingo, and the understanding that when they represent themselves, THEY are ultimately responsible to get the correct paperwork in, fill it out completely and follow through as needed (no blaming the clerk if they didn't do it correctly). Also, the delivery certificates on the forms available to them are confusing; there's a LOT of boxes, and they often don't fill them out completely (perhaps because the number of boxes is messy and confusing).

I think more needs to be said about motion practice and waiting periods for defaults. People often seem to be able to start a case but are unable to finish it. I frequently hear that people wait for the court to act or intervene. They don't understand that is their own duty.

Once the forms are located, it seems to be easier on them. At least for uncontested matters. The forms are in alphabetical order, that's helpful. The forms are categorized, that's helpful. The visual appearance of OCAP could be organized to make it easier for the people.

The majority of people are seeking legal advice. Also when they are given court forms, they are not reading them and they frequently end up turning in full packets of forms in which most cases, several of the forms are being submitted prematurely, blank, or incomplete. People who are not represented by counsel when leaving the courtroom, do not seem to be confident in what they were ordered to do based on the swiftness of the hearing or the legal language being used by the Commissioner. Most people think the court does all the work for them and they don't understand that it is their responsibility to keep the case moving forward.

They need guidance more than once - they need it each step along the way.

there are so many resources that i can't see that any more would be helpful.

I believe that providing a tutorial for OCAP would help the people who are working on their domestic cases. The tutorial can just be a simple explanation of OCAP's format,

which will help clear any confusion (like the proper county to file in), a tutorial for service would help as well. Maybe have a youtube video where all proper forms of service are played out. It is helpful to include a temporary orders custody page on OCAP as well.

A strong court-based case management system that tracks a domestic case from initial filing to completion with the capability of reviewing filed pleadings for accuracy and completeness, communicating with parties via text or email concerning significant deadlines or hearing dates, and providing easily accessed responses to questions.

More forms in Spanish on OCAP. The checklists that are in the forms section of some web pages are wonderful. It would be nice to have a step by step outline on each website. It is very helpful to point people to that.

Increased helpfulness/friendliness of clerks. Increased communication between judicial clerks and law library staff. Often clerks do not understand the limitations of OCAP and other court forms. Also, direct messages (email, chat) about patrons coming down for help and what kind of help they need would be great. People need help, but it is difficult for them to come during work hours.

Simplifying the divorce process; simplifying language; more resources for getting free or low cost legal advice; a divorce process that allows for co-petitioners when it's uncontested (less adversarial, more collaborative); more people who are bilingual who can help with OCAP; more Lawyers of the Day. More informal trials. Maybe a document preparation night when people can get help understanding and filling out forms. Maybe a reduction of filing fees if people attend pro se workshops.

Forms in Spanish.

court forms in Spanish

More information about what to do next or where to find that information. For example, if when you filed your petition the court clerk gave you a one page handout that has basic information on service, financial declarations, mediation, the classes, and where to get more information.

Creat a form giving permission to third parties to help people when they cannot attend themselves to file their own paperwork.

More explanatory forms and court website

If the firewalls were relaxed on the Public Access computers in the Pro Se Family Law Clinics.

I think that more access to people that can review their court documents would make things easier, since we can't review documents in the family law legal clinic.

More user-friendly interface and steps in either filing for divorce or other issue.

Less forms and not so complicated. To fill out, figure and print so many documents is painful. If the Self Help Center could give the clients legal advice not just forms it would be much better. Many times this is very frustrating when they don't have a choice to go for advice.

More OCAP forms in Spanish (Parentage, especially). More support for service to a foreign country.

They need advice at the outset of the case. It would be helpful if OCAP told the users that there are clinics where they can get advice prior to filing if they are low income and maybe a list of attorneys who will do document reviews at a reasonable cost if the user is over income for the clinics. It is much easier to fix the documents before they are filed. The clients need to know that.

5. I want you to know this about the court experience for the people I help

The court experience is scary for most people. Many of the clerks give conflicting information about the protective order process. Victims that are traumatized look for information and it can add to the crisis that they are facing.

The court experience for the people I help seems too confusing and takes what seems like longer than it has to. People are always commenting that there are too many steps and too much paperwork. Also instructions on OCAP documents about needing 3 copies of all OCAP forms seems wasteful and tends to overwhelm a lot of people. Most people have lost contact with the other party and end up filing for alternative service and will have no use for so many copies. For the most part I think everyone involved in helping pro se litigants are doing an excellent job of helping them get through their cases. The pro se calendars seem to be a great source of relief for parties because they can speak with an attorney and get advice on how to proceed. The Self-Help Center is a great source of relief for pro se litigants and court personnel who probably sound like broken records having to repeat that they cannot give legal advice or fill out forms.

I think the 2 biggest obstacles are when parties have unrealistic expectations about the court's role in moving a case through the process and unrealistic provisions or provisions that seem too broadly stated in final orders. It's too bad people are in such a rush all the time that they never take the time to read their documents before they file them. "You can lead a horse to water..."

Most resources that I refer people to are available when the question arises. But I would be willing to participate in a training about helping people with simple questions to better ensure they get the help they need, if a program like that existed.

A lot of them are not confident and are unsure if they've filled out paperwork correctly.

We have had several clients come in with their divorce decrees trying to have them corrected when they're already finalized. If they can help review them beforehand and understand what they're signing it would benefit them more.

Most people do not have a lot of money for counsel. I find that people are frustrated with ORS and do not understand the processes that they (ORS) can do to collect back childsupport. For the most part people can fill the forms out with little or no direction, if they now what forms are needed.

Many times they have insufficient knowledge to follow through on something that needs to be done (for example, filing the return of service or turning in final papers when the Respondent is to be defaulted because of lack of filing an answer), and they wait for the court to do something. When months go by and nothing has happened, they call us asking why not. Often we can give them the procedure to move forward, and hopefully this will happen before the case is scheduled on a dismissal calendar.

In my experience people are mostly able to navigate OCAP and the Utah Courts website; most of the trouble I see is people not knowing how to move a case forward. They don't understand motion practice at all, or even how to finalize a case .

It is never easy to help people who cannot type or read.

The majority of people are seeking legal advice. Also when they are given court forms, they are not reading them and they frequently end up turning in full packets of forms in which most cases, several of the forms are being submitted prematurely, blank, or incomplete. People who are not represented by counsel when leaving the courtroom, do not seem to be confident in what they were ordered to do based on the swiftness of the hearing or the legal language being used by the Commissioner. Most people think the court does all the work for them and they don't understand that it is their responsibility to keep the case moving forward.

They do not understand the substantive and procedural issues.

i help with domestic cases. these are very emotional. i can only help so much as a clerk. many people are too overwhelmed with what they are personally going through that the procedural system of the court seems too much for them to handle alone, but they cannot afford an attorney. there are many cases in which people just don't follow through because they have given up; sometimes just after they have begun.

Most people do not come into the justice system wanting to litigate their domestic case but must come into the system to get a court order because without that order they cannot move on with their lives. We should review carefully the points in the court process where people get stuck or have difficulty, figure out ways to remove those procedural barriers, and help people achieve their final goals.

People complain that they have to go multiple places and they get different and conflicting information in each place. They complain that they are treated poorly if they speak Spanish. They are very appreciative when they encounter positive people who express willingness to help and provide useful information (this experience often overshadows the complexity of the system and other barriers). Many men express frustration that the system seems to favor moms over dads. Many immigrants are not aware of: right to counsel, right to interpreters, ability to use the judicial system without being documented.

They are often terrified of going pro se, but are incapable of paying for or waiting for an attorney.

Patrons in the Pro Se Clinic at West Jordan try to reset their password on their OCAP forms but because the public access computers will not reach their email they are stymied. Persons are also attempting but unable to reach the bar association web page, or legal aid web page or to search for the address of the child's school from the public access computers in the Pro Se Clinic. These problems would disappear if the firewalls were relaxed on the Public Access computers in the Pro Se Family Law Clinics. Thank you

I think that the people who attend this clinic find it hard to understand the legal terms, and it may be too hard for them to look all of them up with the limited amount of time they have.

A lot of people are intimidated by legal terminology and are scared because going through the legal system seems daunting.

They need to be treated with more respect and dignity without bias. All of the officials, not just the court, but also the law enforcement have to be better trained. A cultural competency extensive training should be a requirement for everyone.

People are often referred to the family law clinic in Matheson and West Jordan for general civil matters. While we are happy to help the best we can, these issues are often better served with referrals to Self Help, or low-cost firms like Utah Legal Services.

The Utah Courts website is awesome. There is so much information. An index would be helpful for frequent users (not necessarily the one time user). It is sometimes challenging to find information that I know is somewhere on the site although this has improved. It is wonderful that we have the A/CC on OCAP now.

Notice of Entry Proposed Form

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Petitioner

v.

Respondent

Notice of Entry of

☐ **Divorce Decree**

☐ **Parentage Decree**

Case Number

Judge

Commissioner

Please take notice that the court entered a final judgment in this case on
_____ [date].

You may appeal this judgment by filing a Notice of Appeal with this court within 30 days
after the date the judgment was entered.

If you want a copy of the decree, contact the court clerk.

Date

Sign here ►

Typed or Printed Name

Certificate of Service

I certify that I served a copy of this Notice of Judgment on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Other Party or Attorney)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Child Support Division, if applicable)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Clerk of Court)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Electronic File		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Sign here ►

Date _____

Typed or Printed Name _____

Notice of Hearing Proposed Form

Documents and forms filed with the court must be in English.
Los documentos y formularios deben ser presentados en inglés en el tribunal.

My Name _____ *Mi Nombre*

Address _____ *Domicilio*

City, State, Zip _____ *Ciudad, Estado, Código postal*

Phone _____ *Teléfono*

Email _____ *Correo electrónico*

In the ☐ District ☐ Juvenile ☐ Justice Court of Utah
En el Tribunal de ☐ Distrito ☐ Menores ☐ Juzgado del Estado de Utah

_____ Judicial District (Distrito Judicial) _____ County (Condado)

Court Address

Dirección del Tribunal

Notice of Hearing
Aviso de Audiencia

Plaintiff/Petitioner _____ *Demandante*

v.

Case Number _____ *Número de caso*

Judge _____ *Juez*

Defendant/Respondent _____ *Demandado[a]*

Commissioner _____ *Comisionado*

To:

Para:

Petitioner Name and Address

Nombre y dirección del Demandante

Respondent Name and Address

Nombre y dirección del Demandado

The court has scheduled a hearing on _____ (title of motion or
subject of hearing) at the following date and time.

El tribunal ha programado una audiencia sobre _____

[título de moción o tema de la audiencia] en la fecha y hora que sigue.

Date (Fecha) _____ Time (Hora) ____:____ [] a.m. [] p.m.

Judge (Juez)

Room (Sala) _____ Commissioner (Comisionado) _____

Attendance. You must attend. If you do not attend, you might be held in contempt of court and the relief requested might be granted. You have the right to be represented by a lawyer.

Asistencia. Presentarse es obligatorio. Si usted no llegara a presentarse, se lo podría encontrar en desacato de las órdenes del juez y la reparación solicitada podría ser otorgada. Usted tiene el derecho de que lo represente un abogado.

Evidence. Bring with you any evidence that you want the court to consider.

Pruebas. Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.

Interpretation. If you do not speak or understand English, contact a judicial services representative at least 3 days before the hearing, and an interpreter will be provided.

Interpretación. Si usted no habla ni entiende el Inglés contacte al Representante de Servicios Judiciales por lo menos 3 días antes de la audiencia y le proveerán un intérprete.

Disability Accommodation. If you have a disability requiring accommodation, including an ASL interpreter, contact a judicial services representative at least 3 days before the hearing.

Atención en caso de incapacidades. Si usted tiene una incapacidad por la cual requiere atención especial, favor de contactar al Representante de los Servicios Judiciales por lo menos 3 días antes de la audiencia.

Sign here ►

Firme aquí ►

Date

Fecha

Typed or Printed Name

Nombre con letra de molde

Documents and forms filed with the court must be in English.
Los documentos y formularios deben ser presentados en inglés en el tribunal.

Certificate of Service Certificado de Entrega Legal			
I certify that I served a copy of this Notice of Hearing on the following people <i>Yo certifico que he hecho entrega legal de este Aviso de Audiencia a las personas que siguen)</i>			
Person's Name <i>Nombre de la Persona</i>	Method of Service <i>Forma de Entrega</i>	Served at this Address <i>Entregado en esta dirección</i>	Served on this Date <i>Entregado en esta Fecha</i>
(Other Party or Attorney) <i>(Otra Parte o Abogado)</i>	<input type="checkbox"/> Mail (<i>Correo</i>) <input type="checkbox"/> Hand Delivery (<i>Entrega personal</i>) <input type="checkbox"/> Email (Person agreed to service by email.) <i>(Correo electrónico [la persona acordó con la entrega por correo electrónico])</i> <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) (<i>Dejar en el negocio [con el encargado o en el recipiente para entregas]</i>) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) (<i>Dejar en casa [con una persona reservada y de edad adecuada y que vive allí]</i>)		
(Other Party or Attorney) <i>(Otra Parte o Abogado)</i>	<input type="checkbox"/> Mail (<i>Correo</i>) <input type="checkbox"/> Hand Delivery (<i>Entrega personal</i>) <input type="checkbox"/> Email (Person agreed to service by email.) <i>(Correo electrónico [la persona acordó con la entrega por correo electrónico])</i> <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) (<i>Dejar en el negocio [con el encargado o en el recipiente para entregas]</i>) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.) (<i>Dejar en casa [con una persona reservada y de edad adecuada y que vive allí]</i>)		

Sign here ►
(Firme aquí) ►

Date(Fecha) _____ Typed or Printed Name _____
 (Nombre con letra de molde)

Order on Motion to Waive
Education Requirements
Form Proposed

My Name _____

Address _____

City, State, Zip _____

Phone _____

Email _____

I am the ☐ Petitioner

☐ Respondent

☐ Attorney for the ☐ Petitioner ☐ Respondent and my Utah Bar number is _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Order on Motion to Waive Education Requirements

Petitioner _____

v. _____

Respondent _____

Case Number _____

Judge _____

Commissioner _____

The matter before the court is a Motion to Waive the Education Requirements. Having considered the documents filed with the court, and now being fully informed,

The Court Finds That:

- (1) ☐ Course attendance and completion are necessary, appropriate, feasible, or in the best interest of the parties.
- (2) ☐ Course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

The Court Orders That:

(3) The Orientation Course is

☐ waived for Petitioner.

☐ waived for Respondent.

☐ not waived for Petitioner.

☐ not waived for Respondent.

(4) The Education Course is

☐ waived for Petitioner.

☐ waived for Respondent.

☐ not waived for Petitioner.

☐ not waived for Respondent.

(5) The ☐ Petitioner ☐ Respondent may not seek affirmative relief from this court in this case unless the required Orientation and Education Courses have been completed.

(6) Other: _____

This order survives the entry of the final decree in this case.

Date

Sign here _____
Judge _____

Certificate of Service

I certify that I served a copy of this document on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Other Party or Attorney)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
(Clerk of Court)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Electronic File		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax (Person agreed to service by fax.) <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date _____ Sign here _____
 Typed or Printed Name _____

Tab 4



Alex G. Peterson

Executive Director, JCC

Colonel, USMC (Ret.)

Born in Cali, Colombia and raised in Carbon County and Holladay, Utah, Alex joined the Marine Corps in 1987 after graduating from Olympus H.S. He received a B.B.A. in Accounting from the Univ. of Oklahoma in 1989. At the Univ. of Utah, he was on Law Review, received a J.D., and graduated with honors in 1992. He graduated with honors from Marine Officer training and Naval Justice School in 1993. He initially represented Marines in domestic, estate, and consumer law matters, and was sent to Oklahoma in response to the bombing of the Alfred P. Murrah Federal Building. Then as a military prosecutor, he tried cases involving drugs, sexual assaults, aggravated assaults and larcenies.

Assigned to the Pentagon in 1996 as the Aide to the Navy Judge Advocate General, he traveled globally to Navy and Marine Bases, and was sent to foreign countries to teach international law and criminal law courses including Argentina, Honduras, Nicaragua, and Italy. At the Pentagon, he also advised on intra-department issues such as General officer ethics investigations and professional responsibility for Navy and Marine lawyers. He advised on inter-agency issues like the El Paso border shooting incident and the Aviano Cable-car tragedy and trial. In 1998, he became the career manager for Marine Corps legal personnel, where he oversaw legal personnel assignments and Marine legal organizational issues.

In 2001, he graduated with honors from TJAGSA at the University of Virginia with a Master of Laws (L.L.M.) in International and Operational Law. He then became the legal advisor for Marine Corps Forces, South in Miami, FL, where he reviewed Marine operations throughout Latin America. He was also selected as the ABA 2001-2002 Marine Corps Young Lawyer of the Year. In 2002, he became an assistant legal advisor for U.S. Southern Command where his legal practice was Plan Colombia, International Agreements for deployed US forces, and command operational lawyer that included supporting Haiti relief efforts and the establishment of the Guantanamo Detention facility. In 2003, his article "Order out of Chaos: Domestic Enforcement of the Law of Internal Conflict" 171 Mil. L. Rev. 1 (2002) received the ABA, Standing Committee on Armed Forces' Law, Keith E. Nelson Distinguished Service Award.

As a LtCol in 2005, he deployed to combat as the legal advisor to Camp Taqqaddum, Iraq. In 2006, he returned to combat as a senior legal advisor for all Marine Forces in Iraq. During this time, he was also Officer-in-Charge, Legal Service Support Team – Iraq with detachments all over the Anbar Province, and the Rule of Law Coordinator responsible for re-establishing the provincial criminal justice system. On return, he was responsible for legal planning, manning and training for Marine forces deploying to Afghanistan.

In 2009, he moved to Ft. Lauderdale, FL as the Commanding Officer of U.S. Embassy Security Guards, where he travelled extensively in South America. In 2010, he became the legal advisor for the largest Marine Corps Base in the U.S., providing legal advice and coordinating legal services to the 29,000+ members stationed at Twenty-nine Palms, CA. In 2013, he retired from the Marines as a Colonel. He returned to private practice as a partner at Peck Peterson, LLP, where he provided employment law advice and civil rights litigation in Utah until 2017. He assumed his current position as the Executive Director of the Utah Judicial Conduct Commission in January 2017.

Alex is married to the former Jaqualin Friend of Salt Lake City, Utah. They live in Kamas and have two children: Erin and Alexander. He is involved in the community as a Youth Soccer Coach, Vice Chair of the Summit County Library Board, Chairman of the non-profit, Birankai N.A., member of Combat Veterans Motorcycle Association, American Legion, Veterans of Foreign Wars and WarriorPointe. He is also a 6th black belt, Martial Arts instructor.

(Revised: 21 June 2017)



Alex G. Peterson
Executive Director

State of Utah

JUDICIAL CONDUCT COMMISSION

2540 Washington Blvd., Suite 703
Ogden, Utah 84401
Telephone: (801) 626-3369

TO Judicial Council

FROM Alex G. Peterson

DATE June 26, 2017

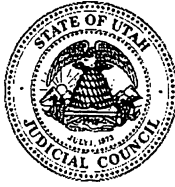
RE Biannual JCC Executive Director's Report

MESSAGE

Thanks for the opportunity to update the Judicial Council. Here's a list of the topics I will cover. Please advise if any additional material is desired.

1. New Executive Director hired (bio attached)
2. JCC Membership Update
3. JCC Caseload Update
4. JCC FY17 Public Actions review
5. Misc. Activities of JCC

Tab 5



Administrative Office of the Courts

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

MEMORANDUM

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy Sylvester*
Date: June 16, 2017
Re: Commissioner Rules for Consideration

RULES FOR COMMENT

The Policy and Planning Committee has made extensive revisions to the commissioner rules in response to suggestions from Brent Johnson on improving the processes of commissioner appointments, evaluations, and retention.

CJA Rule 3-201:

- Clarifies how the districts and court levels that a commissioner will serve will be represented on the court commissioner nominating committee.
- Clarifies that the commissioner nominating manual's voting procedures shall be used in appointment decisions.
- Clarifies that all nominating committee voting shall be by confidential ballot and provides procedures for reconsideration of a candidate.
- Clarifies how a commissioner is selected if they will serve more than one judicial district or court level.
- Clarifies how candidates' names are circulated for public comment.
- Clarifies that the commissioner certification process addresses retention, not removal.
- Clarifies that when a commissioner serves two districts or court levels, the presiding judges will each prepare performance evaluations and performance plans.
- Clarifies how the commissioner public comment period results are reviewed and used.

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.

- Clarifies and separates the sanctions and removal processes for commissioners.
- Clarifies that removal of a commissioner serving multiple districts or court levels may only be done with the concurrence of a majority of judges in each district or court level. Provides a review process by the Management Committee if a district or court level disagrees with a decision to remove.
- Provides that a decision not to retain a commissioner shall be communicated to the commissioner not less than 60 days – as opposed to 30 days – prior to the end of their term.

CJA Rule 3-111:

- Clarifies that commissioners' annual evaluations will be completed by January 31 and that the presiding judge of each district or court level the commissioner serves shall complete one.
- Clarifies that the court commissioner evaluation process will include:
 - a quarterly survey of judges and court personnel
 - a review of at least five cases, and
 - courtroom observation.
- Clarifies that commissioners' performance plans and evaluations shall be kept in their personnel files.
- Establishes that the presiding judge will prepare a performance plan for the commissioner within 30 days of a new commissioner's appointment and that the presiding judge will prepare a corrective action plan if the presiding judge issues an overall "Needs Improvement" rating on a court commissioner's annual evaluation.
- Moves the start of the Judicial Council's certification process from August to July and moves any subsequent required meetings between the Council and commissioners or senior judges to August.

I have enclosed both redline and clean versions of the rules for your consideration. Also enclosed is a letter from TCE Peyton Smith requesting several amendments to Rule 3-111, namely having surveys of judges and court personnel be done annually as opposed to quarterly, and having the annual evaluations completed

Commissioner Rules for Consideration

June 19, 2017

Page 3

by June 1, rather than by January 31. His request came in after Policy and Planning had already voted on the rules.

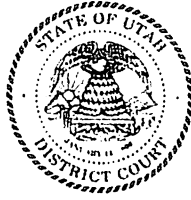
Encl. Letter from Peyton Smith

CJA03-201 (Redline)

CJA03-201 (Clean)

CJA03-111 (Redline)

CJA03-111 (Clean)



Third District Court

C. Peyton Smith
Court Executive

June 16, 2017

Dear Chief Justice Durrant and members of the Judicial Council,

After speaking with Nancy Sylvester about the proposed amendments to Code of Judicial Administration Rules 3-111 and 3-201 that are on your June agenda, I am writing to suggest two edits to the rules before they are circulated for comment that I think will be helpful to the commissioner certification process.

The first edit is in Rule 3-111(1)(A)(i). I suggest moving the evaluation of court commissioners from January 31 to June 1. The reason this makes sense is because the Council has been receiving the annual evaluations at its August meeting when it is making decisions on whether or not to certify commissioners. A January 31 evaluation would be stale by the time the Council took up commissioner certifications. A June 1 deadline would give the districts the benefit of attorney survey results as part of the process, which Nancy says come out around that time of the year for mid-term and end-of-term commissioners.

The other edit I am suggesting is to remove the phrase, "on a quarterly basis" from paragraph (1)(A)(ii) regarding surveys of judges and court personnel. The reality is that this survey should only be done once a year. Most people have survey fatigue from all of the many places we are surveyed these days (grocery stores, hair salons, etc.) and TCE's and presiding judges have many other duties to attend to without adding monitoring surveys every few months. I don't believe a quarterly survey will give much more meaningful information than an annual survey.

Aside from those changes, I think the rules look fine. I discussed my concerns with the TCE's in First, Second, and Fourth District, and they all agreed with the amendments I'm proposing.

I appreciate your consideration of my feedback.

Sincerely,

A handwritten signature in black ink, reading "C. Peyton Smith".

C. Peyton Smith
Third District Trial Court Executive

Rule 3-201. Court commissioners.

Intent:

To define the role of court commissioner.

To establish a term of office for court commissioners.

To establish uniform administrative policies governing the qualifications, appointment, supervision, discipline and removal of court commissioners.

To establish uniform administrative policies governing the salaries, benefits and privileges of the office of court commissioner.

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:

(1) **Definition.** Court commissioners are quasi-judicial officers established by the Utah Code.

(2) **Qualifications.**

(2)(A) Court commissioners must be at least 25 years of age, United States citizens, Utah residents for three years preceding appointment and residents of Utah while serving as commissioners. A court commissioner shall reside in a judicial district the commissioner serves.

(2)(B) Court commissioners must be admitted to practice law in Utah and exhibit good character. Court commissioners must possess ability and experience in the areas of law in which the court commissioner serves.

(2)(C) Court commissioners shall serve full time and shall comply with Utah Code Section 78A-2-221.

(3) **Appointment - Oath of office.**

(3)(A) Selection of court commissioners shall be based solely upon consideration of fitness for office.

(3)(B) When a vacancy occurs or is about to occur in the office of a court commissioner, the Council shall determine whether to fill the vacancy. The Council may determine that the court commissioner will serve more than one judicial district.

(3)(C) A committee for the purpose of nominating candidates for the position of court commissioner shall consist of ~~one judge~~ the presiding judge or designee from each court level and judicial district that the commissioner will serve, three lawyers, and two members of the public. Committee members shall be appointed by the presiding judge of the district court of each judicial district. The committee members shall serve three year terms, staggered so that not more than one term of a member of the bench, bar, or public expires during the same calendar year. The presiding judge shall designate a chair of the committee. All members of the committee shall reside in the judicial district. All members of the committee shall be voting members. A quorum of one-half the committee members is necessary for the committee to

act. The committee shall act by the concurrence of a majority of the members voting. When voting upon the qualifications of a candidate, the committee shall follow the ~~voting procedures of the judicial nominating commissions established in the commissioner nominating manual.~~

(3)(D) If the commissioner will serve more than one judicial district, the presiding judges of the districts involved shall select representatives from each district's nominating committee to form a joint nominating committee with a size and composition equivalent to that of a district committee, except that a maximum of two judges from each district shall serve on the joint nominating committee.

(3)(E) No member of the committee may vote upon the qualifications of any candidate who is the spouse of that committee member or is related to that committee member within the third degree of relationship. No member of the committee may vote upon the qualifications of a candidate who is associated with that committee member in the practice of law. The committee member shall declare to the committee any other potential conflict of interest between that member and any candidate as soon as the member becomes aware of the potential conflict of interest. The committee shall determine whether the potential conflict of interest will preclude the member from voting upon the qualifications of any candidate. The committee shall record all declarations of potential conflicts of interest and the decision of the committee upon the issue.

(3)(F) The administrative office of the courts shall advertise for qualified applicants and shall remove from consideration those applicants who do not meet minimum qualifications of age, citizenship, residency, and admission to the practice of law. The administrative office of the courts shall develop uniform guidelines for the application process for court commissioners.

(3)(G) The nominating committee shall review the applications of qualified applicants and may investigate the qualifications of applicants to its satisfaction. The committee shall interview selected applicants and select the three best qualified candidates. All voting shall be by confidential ballot. The committee shall receive public comment on those candidates as provided in paragraph (4). Any candidate may be reconsidered upon motion by a committee member and upon agreement by a majority of nominating committee members.

(3)(H) When the public comment period as provided in paragraph (4) has closed, the comments shall ~~go be given~~ to the nominating committee. If any comments would negatively affect the committee's decision on whether to recommend a candidate, the candidate shall be given ~~notice~~ all comments with the commenters' names redacted and an opportunity to respond to the comments. If the committee decides not to recommend a candidate based on the comments, the committee shall select another candidate from the interviewed applicants and again receive public comment on the candidates as provided in paragraph (4).

(3)(I) The chair of the nominating committee shall present the names, applications, and the results of

background investigations of the nominees to the judges of the courts the court commissioner will serve. The committee may indicate its order of preference.

(3)(J) The judges of the ~~each~~ courts level the court commissioner will serve shall together select one of the nominees by a concurrence of a majority of judges voting. If the commissioner will serve more than one judicial district, the concurrence of each court independent of the others a majority of judges in each district is necessary for selection.

(3)(K) The presiding judge of the district ~~court of the district~~ the court commissioner will primarily serve shall present the name of the selected candidate to the Council. The selection shall be final upon the concurrence of two-thirds of the members of the Council. The Council shall vote upon the selection within 45 days of the selection or the concurrence of the Council shall be deemed granted.

(3)(L) If the Council does not concur in the selection, the judges of the district may select another of the nominees or a new nominating process will be commenced.

(3)(M) The appointment shall be effective upon the court commissioner taking and subscribing to the oath of office required by the Utah Constitution and taking any other steps necessary to qualify for office. The court commissioner shall qualify for office within 45 days after the concurrence by the Council.

(4) Public comment for appointment and retention.

(4)(A) Final candidates for appointment and court commissioners who are up for retention shall be subject to public comment.

(4)(B) For final candidates, the nominating committee shall be responsible for giving notice of the public comment period.

(4)(C) For court commissioners, the district in which the commissioner serves shall be responsible for giving notice of the public comment period.

(4)(D) The nominating committee or district in which the commissioner serves shall:

(i) email notice to each active member of the Utah State Bar including the names of the nominees or court commissioner with instructions on how to submit comments;

(ii) ~~publish-issue a press release and other public notices listing~~ the names of the nominees or court commissioner with instructions on how to submit comments ~~in a newspaper of general circulation;~~ and

(iii) allow at least 10 days for public comment.

(4)(E) Individuals who comment on the nominees or commissioners should be encouraged, but not required, to provide their names and contact information.

(4)(F) The comments are classified as protected court records and shall not be made available to the public.

(5) Term of office. The court commissioner shall be appointed until December 31 of the third year

following concurrence by the Council. At the conclusion of the first term of office and each subsequent term, the court commissioner shall be retained for a term of four years unless the judges of the courts the commissioner serves ~~remove vote not to retain~~ the commissioner in accordance with paragraph ~~(6)(C)(8)(B)~~ or unless the Judicial Council does not certify the commissioner for retention under rule 3-111. The term of office of court commissioners holding office on April 1, 2011 shall end December 31 of the year in which their term would have ended under the former rule.

(6) Court commissioner Pperformance evaluation and public comments review.

~~(6)(A) Performance evaluations and performance plans.~~ The presiding judge of ~~the each~~ district and court level the commissioner serves shall prepare an evaluation of the commissioner's performance and a performance plan in accordance with Rule 3-111. ~~on an annual basis, on forms provided by the administrative office. The presiding judge shall provide copies of the evaluation to the Judicial Council. A copy of the performance plan and any subsequent evaluation shall be maintained in the official personnel file in the administrative office. Court commissioners shall comply with the program for judicial performance evaluation, including any recommendations made in the evaluation~~ expectations set forth in a performance plan.

~~(B) When the public comment period has closed, the comments shall go to the presiding judge in the district in which the commissioner serves. If any comments would negatively affect the presiding judge's decision on whether to discipline or remove the commissioner from office, the commissioner shall be given notice and an opportunity to respond to the comments.~~

(6)(B) Public comment period results. When the public comment period for a commissioner provided in paragraph (4) closes, the comments shall be given to and reviewed by the presiding judge of each district and court level the commissioner serves. If any comments would negatively affect the presiding judge's decision of whether to sanction the commissioner or remove the commissioner from office in accordance with paragraph (7), the commissioner shall be provided all comments with the commenters' names redacted and the commissioner shall be given an opportunity to respond to the comments.

(7) Sanctions or removal during a commissioner's term.~~Removal and sanctions.~~

(7)(A) Sanctions.

(7)(A)(i) The court commissioner may be sanctioned by the Council as the result of a formal complaint filed under rule 3-201.02.

(7)(A)(ii) If the commissioner's performance is not satisfactory, the commissioner may be sanctioned in accordance with paragraph (7)(A)(iii) by the presiding judge, or presiding judges if the commissioner serves multiple districts or court levels, with the concurrence of a majority of the judges of that jurisdiction in either district or court level the commissioner serves, may discipline the

commissioner-

(7)(A)(iii) Sanctions may include but are not limited to private or public censure, restrictions in case assignments with corresponding reduction in salary, mandatory remedial education, and suspension without pay for a period not to exceed 60 days. ~~suspension for a period not to exceed 60 days, and reduction in salary~~

(7)(B) Removal.

(7)(B)(i) **Removal by Judicial Council.** During a commissioner's term, ~~T~~the court commissioner may be removed by the Council:

(7)(B)(i)(a) as part of a reduction in force;

(7)(B)(i)(b) for failure to meet the evaluation ~~and certification~~ requirements; or

(7)(B)(i)(c) as the result of a formal complaint filed under rule 3-201.02 upon the concurrence of two-thirds of the Council.

(7)(B)(ii) or Removal by District or Court Level.

(7)(B)(ii)(a) During a commissioner's term, if the commissioner's performance is not satisfactory, the commissioner may be removed by the presiding judge, or presiding judges if the commissioner serves multiple districts or court levels, only with the concurrence of a majority of the judges in each district or court level the commissioner serves. ~~remove the commissioner from office.~~

(7)(B)(ii)(b) If the commissioner serves multiple districts or court levels and one district or court level contests a commissioner removal decision made by the other district or court level, the Management Committee will review the decision, with final determination by the Judicial Council.

(7)(C) **Review of District or Court Level Decisions.** If the commissioner disagrees with ~~the a~~ presiding judge's district or court level's decision to sanction or remove, the commissioner may request a review of the decision by the Management Committee of the Council.

(8) Retention

(8)(A) The Council shall review materials on the commissioner's performance ~~during prior to the end~~ of the commissioner's term of office and the Council shall vote on whether the commissioner is eligible to be retained for another term in accordance with rule 3-111.

(8)(B) At the end of a commissioner's term, ~~T~~the court commissioner may be removed without cause by the judges of ~~the each courts~~ district and court level the commissioner serves ~~at the conclusion of a term of office~~ may vote not to retain the commissioner for another term of office. ~~Removal under this paragraph~~ The decision not to retain is without cause and shall be by the concurrence of a majority of all ~~the judges of in each district and court level the courts~~ the commissioner serves. A decision not to ~~remove~~ retain a commissioner under this paragraph shall be communicated to the commissioner within a

reasonable time after the decision is made, and not less than ~~30-60~~ days prior to the end of the commissioner's term termination.

(98) Salaries and benefits.

(9)(A) The Council shall annually establish the salary of court commissioners. In determining the salary of the court commissioners, the Council shall consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary of a commissioner shall not be reduced during the commissioner's tenure.

(9)(B) Court commissioners shall receive annual leave of 20 days per calendar year and the same sick leave benefits as judges of the courts of record. Annual leave not used at the end of the calendar year shall not accrue to the following year. A commissioner hired part way through the year shall receive annual leave on a prorated basis. Court commissioners shall receive the same retirement benefits as non-judicial officers employed in the judicial branch.

(109) Support services.

(10)(A) Court commissioners shall be provided with support personnel, equipment, and supplies necessary to carry out the duties of the office as determined by the presiding judge.

(10)(B) Court commissioners are responsible for requesting necessary support services from the presiding judge.

Rule 3-201. Court commissioners.

Intent:

To define the role of court commissioner.

To establish a term of office for court commissioners.

To establish uniform administrative policies governing the qualifications, appointment, supervision, discipline and removal of court commissioners.

To establish uniform administrative policies governing the salaries, benefits and privileges of the office of court commissioner.

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:

(1) **Definition.** Court commissioners are quasi-judicial officers established by the Utah Code.

(2) **Qualifications.**

(2)(A) Court commissioners must be at least 25 years of age, United States citizens, Utah residents for three years preceding appointment and residents of Utah while serving as commissioners. A court commissioner shall reside in a judicial district the commissioner serves.

(2)(B) Court commissioners must be admitted to practice law in Utah and exhibit good character. Court commissioners must possess ability and experience in the areas of law in which the court commissioner serves.

(2)(C) Court commissioners shall serve full time and shall comply with Utah Code Section 78A-2-221.

(3) **Appointment - Oath of office.**

(3)(A) Selection of court commissioners shall be based solely upon consideration of fitness for office.

(3)(B) When a vacancy occurs or is about to occur in the office of a court commissioner, the Council shall determine whether to fill the vacancy. The Council may determine that the court commissioner will serve more than one judicial district.

(3)(C) A committee for the purpose of nominating candidates for the position of court commissioner shall consist of the presiding judge or designee from each court level and judicial district that the commissioner will serve, three lawyers, and two members of the public. Committee members shall be appointed by the presiding judge of the district court of each judicial district. The committee members shall serve three year terms, staggered so that not more than one term of a member of the bench, bar, or public expires during the same calendar year. The presiding judge shall designate a chair of the committee. All members of the committee shall reside in the judicial district. All members of the committee shall be voting members. A quorum of one-half the committee members is necessary for the committee to

act. The committee shall act by the concurrence of a majority of the members voting. When voting upon the qualifications of a candidate, the committee shall follow the procedures established in the commissioner nominating manual.

(3)(D) If the commissioner will serve more than one judicial district, the presiding judges of the districts involved shall select representatives from each district's nominating committee to form a joint nominating committee with a size and composition equivalent to that of a district committee, except that a maximum of two judges from each district shall serve on the joint nominating committee.

(3)(E) No member of the committee may vote upon the qualifications of any candidate who is the spouse of that committee member or is related to that committee member within the third degree of relationship. No member of the committee may vote upon the qualifications of a candidate who is associated with that committee member in the practice of law. The committee member shall declare to the committee any other potential conflict of interest between that member and any candidate as soon as the member becomes aware of the potential conflict of interest. The committee shall determine whether the potential conflict of interest will preclude the member from voting upon the qualifications of any candidate. The committee shall record all declarations of potential conflicts of interest and the decision of the committee upon the issue.

(3)(F) The administrative office of the courts shall advertise for qualified applicants and shall remove from consideration those applicants who do not meet minimum qualifications of age, citizenship, residency, and admission to the practice of law. The administrative office of the courts shall develop uniform guidelines for the application process for court commissioners.

(3)(G) The nominating committee shall review the applications of qualified applicants and may investigate the qualifications of applicants to its satisfaction. The committee shall interview selected applicants and select the three best qualified candidates. All voting shall be by confidential ballot. The committee shall receive public comment on those candidates as provided in paragraph (4). Any candidate may be reconsidered upon motion by a committee member and upon agreement by a majority of nominating committee members.

(3)(H) When the public comment period as provided in paragraph (4) has closed, the comments shall be given to the nominating committee. If any comments would negatively affect the committee's decision on whether to recommend a candidate, the candidate shall be given all comments with the commenters' names redacted and an opportunity to respond to the comments. If the committee decides not to recommend a candidate based on the comments, the committee shall select another candidate from the interviewed applicants and again receive public comment on the candidates as provided in paragraph (4).

(3)(I) The chair of the nominating committee shall present the names, applications, and the results of background investigations of the nominees to the judges of the courts the court commissioner will serve.

The committee may indicate its order of preference.

(3)(J) The judges of each court level the court commissioner will serve shall together select one of the nominees by a concurrence of a majority of judges voting. If the commissioner will serve more than one judicial district, the concurrence of a majority of judges in each district is necessary for selection.

(3)(K) The presiding judge of the district the court commissioner will primarily serve shall present the name of the selected candidate to the Council. The selection shall be final upon the concurrence of two-thirds of the members of the Council. The Council shall vote upon the selection within 45 days of the selection or the concurrence of the Council shall be deemed granted.

(3)(L) If the Council does not concur in the selection, the judges of the district may select another of the nominees or a new nominating process will be commenced.

(3)(M) The appointment shall be effective upon the court commissioner taking and subscribing to the oath of office required by the Utah Constitution and taking any other steps necessary to qualify for office. The court commissioner shall qualify for office within 45 days after the concurrence by the Council.

(4) Public comment for appointment and retention.

(4)(A) Final candidates for appointment and court commissioners who are up for retention shall be subject to public comment.

(4)(B) For final candidates, the nominating committee shall be responsible for giving notice of the public comment period.

(4)(C) For court commissioners, the district in which the commissioner serves shall be responsible for giving notice of the public comment period.

(4)(D) The nominating committee or district in which the commissioner serves shall:

(i) email notice to each active member of the Utah State Bar including the names of the nominees or court commissioner with instructions on how to submit comments;

(ii) issue a press release and other public notices listing the names of the nominees or court commissioner with instructions on how to submit comments; and

(iii) allow at least 10 days for public comment.

(4)(E) Individuals who comment on the nominees or commissioners should be encouraged, but not required, to provide their names and contact information.

(4)(F) The comments are classified as protected court records and shall not be made available to the public.

(5) Term of office. The court commissioner shall be appointed until December 31 of the third year following concurrence by the Council. At the conclusion of the first term of office and each subsequent term, the court commissioner shall be retained for a term of four years unless the judges of the courts the commissioner serves vote not to retain the commissioner in accordance with paragraph (8)(B) or unless

the Judicial Council does not certify the commissioner for retention under rule 3-111. The term of office of court commissioners holding office on April 1, 2011 shall end December 31 of the year in which their term would have ended under the former rule.

(6) Court commissioner performance review.

(6)(A) Performance evaluations and performance plans. The presiding judge of each district and court level the commissioner serves shall prepare an evaluation of the commissioner's performance and a performance plan in accordance with Rule 3-111. Court commissioners shall comply with the program for judicial performance evaluation, including expectations set forth in a performance plan.

(6)(B) Public comment period results. When the public comment period for a commissioner provided in paragraph (4) closes, the comments shall be given to and reviewed by the presiding judge of each district and court level the commissioner serves. If any comments would negatively affect the presiding judge's decision of whether to sanction the commissioner or remove the commissioner from office in accordance with paragraph (7), the commissioner shall be provided all comments with the commenters' names redacted and the commissioner shall be given an opportunity to respond to the comments.

(7) Sanctions or removal during a commissioner's term.

(7)(A) Sanctions.

(7)(A)(i) The court commissioner may be sanctioned by the Council as the result of a formal complaint filed under rule 3-201.02.

(7)(A)(ii) If the commissioner's performance is not satisfactory, the commissioner may be sanctioned in accordance with paragraph (7)(A)(iii) by the presiding judge, or presiding judges if the commissioner serves multiple districts or court levels, with the concurrence of a majority of the judges in either district or court level the commissioner serves.

(7)(A)(iii) Sanctions may include but are not limited to private or public censure, restrictions in case assignments with corresponding reduction in salary, mandatory remedial education, and suspension without pay for a period not to exceed 60 days.

(7)(B) Removal.

(7)(B)(i) Removal by Judicial Council. During a commissioner's term, the court commissioner may be removed by the Council:

(7)(B)(i)(a) as part of a reduction in force;

(7)(B)(i)(b) for failure to meet the evaluation requirements; or

(7)(B)(i)(c) as the result of a formal complaint filed under rule 3-201.02 upon the concurrence of two-thirds of the Council.

(7)(B)(ii) Removal by District or Court Level.

(7)(B)(ii)(a) During a commissioner's term, if the commissioner's performance is not satisfactory, the commissioner may be removed by the presiding judge, or presiding judges if the commissioner serves multiple districts or court levels, only with the concurrence of a majority of the judges in each district or court level the commissioner serves.

(7)(B)(ii)(b) If the commissioner serves multiple districts or court levels and one district or court level contests a commissioner removal decision made by the other district or court level, the Management Committee will review the decision, with final determination by the Judicial Council.

(7)(C) **Review of District or Court Level Decisions.** If the commissioner disagrees with a district or court level's decision to sanction or remove, the commissioner may request a review of the decision by the Management Committee of the Council.

(8) Retention

(8)(A) The Council shall review materials on the commissioner's performance prior to the end of the commissioner's term of office and the Council shall vote on whether the commissioner is eligible to be retained for another term in accordance with rule 3-111.

(8)(B) At the end of a commissioner's term, the judges of each district and court level the commissioner serves may vote not to retain the commissioner for another term of office. The decision not to retain is without cause and shall be by the concurrence of a majority of the judges in each district and court level the commissioner serves. A decision not to retain a commissioner under this paragraph shall be communicated to the commissioner within a reasonable time after the decision is made, and not less than 60 days prior to the end of the commissioner's term.

(9) Salaries and benefits.

(9)(A) The Council shall annually establish the salary of court commissioners. In determining the salary of the court commissioners, the Council shall consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary of a commissioner shall not be reduced during the commissioner's tenure.

(9)(B) Court commissioners shall receive annual leave of 20 days per calendar year and the same sick leave benefits as judges of the courts of record. Annual leave not used at the end of the calendar year shall not accrue to the following year. A commissioner hired part way through the year shall receive annual leave on a prorated basis. Court commissioners shall receive the same retirement benefits as non-judicial officers employed in the judicial branch.

(10) Support services.

(10)(A) Court commissioners shall be provided with support personnel, equipment, and supplies necessary to carry out the duties of the office as determined by the presiding judge.

(10)(B) Court commissioners are responsible for requesting necessary support services from the

Rule 3-201.

Draft: 6/2/2017

171 presiding judge.

Rule 3-111 Performance evaluation of senior judges and court commissioners.**Intent:**

To establish a performance evaluation, including the criteria upon which senior judges and court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate and to provide to senior judges and court commissioners information about their performance.

To establish the procedures by which the Judicial Council will evaluate and certify senior judges and court commissioners for reappointment.

Applicability:

This rule shall apply to presiding judges, the Board of Justice Court Judges and the Judicial Council, and to the active senior judges and court commissioners of the Court of Appeals, courts of record and courts not of record.

Statement of the Rule:**(1) Performance evaluations.****(1)(A) Court commissioners.**

(1)(A)(i) On forms provided by the administrative office, the presiding judge of the a district or court level a court commissioner primarily serves shall complete an annual evaluation of the court commissioner's performance by January 31 of each year. If a commissioner serves multiple districts or court levels, the presiding judge of each district or court level shall complete an evaluation.

(1)(A)(ii) The presiding judge shall survey judges and court personnel on a quarterly basis seeking feedback for the evaluation. During the evaluation period, the presiding judge shall review at least five of the commissioner's active cases. The review shall include courtroom observation.

(1)(A)(iii) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained in the commissioner's personnel file in the administrative office.

(1)(B) Appellate senior judges. On forms provided by the administrative office, the presiding judge of the Court of Appeals shall complete an evaluation of the appellate senior judge's performance every eighteen months starting after the senior judge's initial term.

(1)(C) District and juvenile court senior judges. On forms provided by the administrative office, the presiding judge of the district an active senior judge primarily serves shall complete an evaluation of the senior judge's performance every eighteen months starting after the senior judge's initial term.

(1)(D) **Justice court senior judges.** On forms provided by the administrative office, the chair of the Board of Justice Court Judges shall complete an evaluation of the active senior justice court judge's performance every eighteen months starting after the senior judge's initial term.

~~(1)(E) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council.~~ (1)(FE) **Senior judges and "Needs Improvement" ratings.** If a senior judge receives an overall "Needs Improvement" rating on the performance evaluation, the evaluator shall provide a copy of the evaluation to the Judicial Council.

(2) **Evaluation and Certification Criteria.** Active senior judges and court commissioners shall be evaluated and certified upon the following criteria:

(2)(A) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(2)(B) attentiveness to factual and legal issues before the court;

(2)(C) adherence to precedent and ability to clearly explain departures from precedent;

(2)(D) grasp of the practical impact on the parties of the commissioner's or senior judge's rulings, including the effect of delay and increased litigation expense;

(2)(E) ability to write clear judicial opinions;

(2)(F) ability to clearly explain the legal basis for judicial opinions;

(2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's or senior judge's court;

(2)(H) maintenance of decorum in the courtroom;

(2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(2)(J) preparation for hearings or oral argument;

(2)(K) avoidance of impropriety or the appearance of impropriety;

(2)(L) display of fairness and impartiality toward all parties;

(2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions;

(2)(N) management of workload;

(2)(O) willingness to share proportionally the workload within the court or district, or regularly accepting assignments; and

(2)(P) issuance of opinions and orders without unnecessary delay; and

~~(2)(Q)3 Senior judges shall also be evaluated on their ability and willingness to use the court's case management systems in all cases.~~

(34) Standards of performance.

(34)(A) Survey of attorneys.

(34)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys appearing before the senior judge or court commissioner during the period for which the senior judge or court commissioner is being evaluated. The Council shall measure satisfactory performance based on the results of the final survey conducted during a court commissioner's term of office, subject to the discretion of a court commissioner serving an abbreviated initial term not to participate in a second survey under Section (32)(A)(vi) of this rule.

(34)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

(34)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge. A favorable response is Excellent, More Than Adequate, or Adequate.

(34)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable responses by the total number of all responses, excluding the "No Personal Knowledge" responses. A satisfactory score for a question is achieved when the ratio of favorable responses is 70% or greater.

(34)(A)(ii)(c) A court commissioner's performance is satisfactory if:

(34)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

(34)(A)(ii)(c)(2) the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

(34)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.

(34)(A)(iii) **Survey respondents.** The Administrative Office of the Courts shall identify as potential respondents all lawyers who have appeared before the court commissioner during the period for which the commissioner is being evaluated.

(34)(A)(iv) **Exclusion from survey respondents.**

(34)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(34)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(34)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. All attorneys who have appeared before the senior judge shall be sent a survey questionnaire as soon as possible after the hearing.

(34)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(34)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

(34)(B) **Survey of presiding judges and court staff.** The Council shall measure performance of senior judges by a survey of all presiding judges and trial court executives of districts in which the senior judge has been assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity. The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.

(34)(C) **Case under advisement standard.** A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the senior judge or court commissioner for final determination. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the court.

(34)(C)(i) A senior judge or court commissioner in a trial court demonstrates satisfactory performance by holding:

(34)(C)(i)(a) no more than three cases per calendar year under advisement more than 60 days after submission; and

(34)(C)(i)(b) no case under advisement more than 180 days after submission.

(34)(C)(ii) A senior judge in the court of appeals demonstrates satisfactory performance by:

(34)(C)(ii)(a) circulating no more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year; and

(34)(C)(ii)(b) achieving a final average time to circulation of a principal opinion of no more than 120 days after submission.

(34)(D) Compliance with education standards. Satisfactory performance is established if the senior judge or court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the state court administrator.

(34)(E) Substantial compliance with Code of Judicial Conduct. Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates substantial compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be complete and correct and if the Council's review of formal and informal sanctions lead the Council to conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.

(34)(F) Physical and mental competence. Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(3)(G) Performance and corrective action plans for court commissioners.

(3)(G)(i) The presiding judge of the district a court commissioner serves shall prepare a performance plan for a new court commissioner within 30 days of the court commissioner's appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of each district and court level shall prepare a performance plan. The performance plan shall communicate the expectations set forth in paragraph (2) of this rule.

(3)(G)(ii) If a presiding judge issues an overall "Needs Improvement" rating on a court commissioner's annual performance evaluation as provided in paragraph (1), that presiding judge shall prepare a corrective action plan setting forth specific ways in which the court commissioner can improve in deficient areas.

(45) Judicial Council certification process

(4)(A) July Council meeting. At its meeting in ~~August~~ July, the Council shall begin the process of determining whether the senior judges and court commissioners whose terms of office expire that year

meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall assemble all evaluation information, including:

(45)(A)(i) survey scores;

(45)(A)(ii) judicial education records;

(45)(A)(iii) self-declaration forms;

(45)(A)(iv) records of formal and informal sanctions;

(45)(A)(v) performance evaluations, if the commissioner or senior judge received an overall rating of Needs Improvement; and

(45)(A)(vi) any information requested by the Council.

(45)(B) **Records delivery.** Prior to the meeting the Administrative Office of the Courts shall deliver the records to the Council and to the senior judges and court commissioners being evaluated.

(45)(C) **July Council meeting closed session.** In a session closed in compliance with Rule 2-103, the Council shall consider the evaluation information and make a preliminary finding of whether a senior judge or court commissioner has met the performance standards.

(45)(D) **Certification presumptions.** If the Council finds the senior judge or court commissioner has met the performance standards, it is presumed the Council will certify the senior judge or court commissioner for reappointment. If the Council finds the senior judge or court commissioner did not meet the performance standards, it is presumed the Council will not certify the senior judge or court commissioner for reappointment. The Council may certify the senior judge or court commissioner or withhold decision until after meeting with the senior judge or court commissioner.

(45)(E) **Overcoming presumptions.** A presumption against certification may be overcome by a showing of good cause to the contrary. A presumption in favor of certification may be overcome by:

(45)(E)(i) reliable information showing non-compliance with a performance standard; or

(45)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to demonstrate lack of substantial compliance with the Code of Judicial Conduct.

(45)(F) **August Council meeting.** At the request of the Council the senior judge or court commissioner shall meet with the Council in ~~September~~ **August**. At the request of the Council the presiding judge shall report to the Council any meetings held with the senior judge or court commissioner, the steps toward self-improvement identified as a result of those meetings, and the efforts to complete those steps. Not later than 5 days after the ~~August~~ **July** meeting, the Administrative Office of the Courts shall deliver to the senior judge or court commissioner being evaluated notice of the Council's action and any records not already delivered to the senior judge or court commissioner. The notice shall contain an adequate description of the reasons the Council has withheld its decision and the date by which the

senior judge or court commissioner is to deliver written materials. The Administrative Office of the Courts shall deliver copies of all materials to the Council and to the senior judge or court commissioner prior to the ~~September-August~~ meeting.

(45)(G) **August Council meeting closed session.** At its ~~September-August~~ meeting in a session closed in accordance with Rule 2-103, the Council shall provide to the senior judge or court commissioner adequate time to present evidence and arguments in favor of certification. Any member of the Council may present evidence and arguments of which the senior judge or court commissioner has had notice opposed to certification. The burden is on the person arguing against the presumed certification. The Council may determine the order of presentation.

(45)(H) **Final certification decision.** At its ~~September-August~~ meeting in open session, the Council shall approve its final findings and certification regarding all senior judges and court commissioners whose terms of office expire that year.

(45)(I) **Communication of certification decision.** The Judicial Council shall communicate its certification decision to the senior judge or court commissioner. The Judicial Council shall communicate its certification decision for senior judges to the Supreme Court and for court commissioners to the presiding judge of the district the commissioner serves.

Rule 3-111 Performance evaluation of senior judges and court commissioners.**Intent:**

To establish a performance evaluation, including the criteria upon which senior judges and court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate and to provide to senior judges and court commissioners information about their performance.

To establish the procedures by which the Judicial Council will evaluate and certify senior judges and court commissioners for reappointment.

Applicability:

This rule shall apply to presiding judges, the Board of Justice Court Judges and the Judicial Council, and to the active senior judges and court commissioners of the Court of Appeals, courts of record and courts not of record.

Statement of the Rule:**(1) Performance evaluations.****(1)(A) Court commissioners.**

(1)(A)(i) On forms provided by the administrative office, the presiding judge of a district or court level a court commissioner serves shall complete an evaluation of the court commissioner's performance by January 31 of each year. If a commissioner serves multiple districts or court levels, the presiding judge of each district or court level shall complete an evaluation.

(1)(A)(ii) The presiding judge shall survey judges and court personnel on a quarterly basis seeking feedback for the evaluation. During the evaluation period, the presiding judge shall review at least five of the commissioner's active cases. The review shall include courtroom observation.

(1)(A)(iii) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained in the commissioner's personnel file in the administrative office.

(1)(B) **Appellate senior judges.** On forms provided by the administrative office, the presiding judge of the Court of Appeals shall complete an evaluation of the appellate senior judge's performance every eighteen months starting after the senior judge's initial term.

(1)(C) **District and juvenile court senior judges.** On forms provided by the administrative office, the presiding judge of the district an active senior judge primarily serves shall complete an evaluation of the senior judge's performance every eighteen months starting after the senior judge's initial term.

(1)(D) **Justice court senior judges.** On forms provided by the administrative office, the chair of the Board of Justice Court Judges shall complete an evaluation of the active senior justice court judge's performance every eighteen months starting after the senior judge's initial term.

(1)(E) **Senior judges and "Needs Improvement" ratings.** If a senior judge receives an overall "Needs Improvement" rating on the performance evaluation, the evaluator shall provide a copy of the evaluation to the Judicial Council.

(2) **Evaluation and Certification Criteria.** Active senior judges and court commissioners shall be evaluated and certified upon the following criteria:

(2)(A) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(2)(B) attentiveness to factual and legal issues before the court;

(2)(C) adherence to precedent and ability to clearly explain departures from precedent;

(2)(D) grasp of the practical impact on the parties of the commissioner's or senior judge's rulings, including the effect of delay and increased litigation expense;

(2)(E) ability to write clear judicial opinions;

(2)(F) ability to clearly explain the legal basis for judicial opinions;

(2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's or senior judge's court;

(2)(H) maintenance of decorum in the courtroom;

(2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(2)(J) preparation for hearings or oral argument;

(2)(K) avoidance of impropriety or the appearance of impropriety;

(2)(L) display of fairness and impartiality toward all parties;

(2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions;

(2)(N) management of workload;

(2)(O) willingness to share proportionally the workload within the court or district, or regularly accepting assignments;

(2)(P) issuance of opinions and orders without unnecessary delay; and

(2)(Q) ability and willingness to use the court's case management systems in all cases.

(3) **Standards of performance.**

(3)(A) **Survey of attorneys.**

(3)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys appearing before the senior judge or court commissioner during the period for which the senior judge or court commissioner is being evaluated. The Council shall measure satisfactory performance based on the results of the final survey conducted during a court commissioner's term of office, subject to the discretion of a court commissioner serving an abbreviated initial term not to participate in a second survey under Section (3)(A)(vi) of this rule.

(3)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

(3)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge. A favorable response is Excellent, More Than Adequate, or Adequate.

(3)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable responses by the total number of all responses, excluding the "No Personal Knowledge" responses. A satisfactory score for a question is achieved when the ratio of favorable responses is 70% or greater.

(3)(A)(ii)(c) A court commissioner's performance is satisfactory if:

(3)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

(3)(A)(ii)(c)(2) the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

(3)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.

(3)(A)(iii) **Survey respondents.** The Administrative Office of the Courts shall identify as potential respondents all lawyers who have appeared before the court commissioner during the period for which the commissioner is being evaluated.

(3)(A)(iv) **Exclusion from survey respondents.**

(3)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(3)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(3)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. All attorneys who have appeared before the senior judge shall be sent a survey questionnaire as soon as possible after the hearing.

(3)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(3)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

(3)(B) **Survey of presiding judges and court staff.** The Council shall measure performance of senior judges by a survey of all presiding judges and trial court executives of districts in which the senior judge has been assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity. The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.

(3)(C) **Case under advisement standard.** A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the senior judge or court commissioner for final determination. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the court.

(3)(C)(i) A senior judge or court commissioner in a trial court demonstrates satisfactory performance by holding:

(3)(C)(i)(a) no more than three cases per calendar year under advisement more than 60 days after submission; and

(3)(C)(i)(b) no case under advisement more than 180 days after submission.

(3)(C)(ii) A senior judge in the court of appeals demonstrates satisfactory performance by:

(3)(C)(ii)(a) circulating no more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year; and

(3)(C)(ii)(b) achieving a final average time to circulation of a principal opinion of no more than 120 days after submission.

(3)(D) **Compliance with education standards.** Satisfactory performance is established if the senior judge or court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the state court administrator.

(3)(E) **Substantial compliance with Code of Judicial Conduct.** Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates substantial compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be complete and correct and if the Council's review of formal and informal sanctions lead the Council to conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.

(3)(F) **Physical and mental competence.** Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(3)(G) Performance and corrective action plans for court commissioners.

(3)(G)(i) The presiding judge of the district a court commissioner serves shall prepare a performance plan for a new court commissioner within 30 days of the court commissioner's appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of each district and court level shall prepare a performance plan. The performance plan shall communicate the expectations set forth in paragraph (2) of this rule.

(3)(G)(ii) If a presiding judge issues an overall "Needs Improvement" rating on a court commissioner's annual performance evaluation as provided in paragraph (1), that presiding judge shall prepare a corrective action plan setting forth specific ways in which the court commissioner can improve in deficient areas.

(4) Judicial Council certification process

(4)(A) **July Council meeting.** At its meeting in July, the Council shall begin the process of determining whether the senior judges and court commissioners whose terms of office expire that year meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall assemble all evaluation information, including:

(4)(A)(i) survey scores;

(4)(A)(ii) judicial education records;

(4)(A)(iii) self-declaration forms;

(4)(A)(iv) records of formal and informal sanctions;

(4)(A)(v) performance evaluations, if the commissioner or senior judge received an overall rating of Needs Improvement; and

(4)(A)(vi) any information requested by the Council.

(4)(B) **Records delivery.** Prior to the meeting the Administrative Office of the Courts shall deliver the records to the Council and to the senior judges and court commissioners being evaluated.

(4)(C) **July Council meeting closed session.** In a session closed in compliance with Rule 2-103, the Council shall consider the evaluation information and make a preliminary finding of whether a senior judge or court commissioner has met the performance standards.

(4)(D) **Certification presumptions.** If the Council finds the senior judge or court commissioner has met the performance standards, it is presumed the Council will certify the senior judge or court commissioner for reappointment. If the Council finds the senior judge or court commissioner did not meet the performance standards, it is presumed the Council will not certify the senior judge or court commissioner for reappointment. The Council may certify the senior judge or court commissioner or withhold decision until after meeting with the senior judge or court commissioner.

(4)(E) **Overcoming presumptions.** A presumption against certification may be overcome by a showing of good cause to the contrary. A presumption in favor of certification may be overcome by:

(4)(E)(i) reliable information showing non-compliance with a performance standard; or

(4)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to demonstrate lack of substantial compliance with the Code of Judicial Conduct.

(4)(F) **August Council meeting.** At the request of the Council the senior judge or court commissioner shall meet with the Council in August. At the request of the Council the presiding judge shall report to the Council any meetings held with the senior judge or court commissioner, the steps toward self-improvement identified as a result of those meetings, and the efforts to complete those steps. Not later than 5 days after the July meeting, the Administrative Office of the Courts shall deliver to the senior judge or court commissioner being evaluated notice of the Council's action and any records not already delivered to the senior judge or court commissioner. The notice shall contain an adequate description of the reasons the Council has withheld its decision and the date by which the senior judge or court commissioner is to deliver written materials. The Administrative Office of the Courts shall deliver copies of all materials to the Council and to the senior judge or court commissioner prior to the August meeting.

196 (4)(G) **August Council meeting closed session.** At its August meeting in a session closed in
197 accordance with Rule 2-103, the Council shall provide to the senior judge or court commissioner
198 adequate time to present evidence and arguments in favor of certification. Any member of the Council
199 may present evidence and arguments of which the senior judge or court commissioner has had notice
200 opposed to certification. The burden is on the person arguing against the presumed certification. The
201 Council may determine the order of presentation.

202 (4)(H) **Final certification decision.** At its August meeting in open session, the Council shall approve
203 its final findings and certification regarding all senior judges and court commissioners whose terms of
204 office expire that year.

205 (4)(I) **Communication of certification decision.** The Judicial Council shall communicate its
206 certification decision to the senior judge or court commissioner. The Judicial Council shall communicate
207 its certification decision for senior judges to the Supreme Court and for court commissioners to the
208 presiding judge of the district the commissioner serves.

209

210

Tab 7

Courts Facility Planning Committee

Memo

To: Judicial Council Management Committee

From: Courts Facility Planning Committee

Date: 6/1/2017

Re: Courts Facility Planning Committee Membership

The Courts Facility Planning Committee is requesting the appointment Judge David Mortensen to fill the Appellate Court judicial position on the committee effective August 1, 2017. This position has been filled by Judge Stephen Roth who is retiring in July 2017. Judge Mortensen continues to have a strong interest in the construction of the new Utah County Courthouse in Provo facility and is interested in serving on the Facility Planning Committee.

The term for this position is three years and is limited to two terms of service.

Thank you for your consideration.




Memo

To: Judicial Council Management Committee
From: Courts Facility Planning Committee
Date: 6/1/2017
Re: Courts Facility Planning Committee Membership


Judge Brady name has been forwarded by Board of District Court Judges to fill the District Court position on the Facility Planning Committee that is being vacated by Judge McVey as of July 2017.

The Courts Facility Planning Committee is requesting the appointment Judge Brady to fill the District Court judicial position on the committee effective August 1, 2017. The District Court position has been filled by Judge McVey who is retiring in July 2017. Judge Brady has a strong interest in the construction of the new Utah County Courthouse in Provo facility and is interested in serving on the Facility Planning Committee.



The term for this position is three years and is limited to two terms of service.

Thank you for your consideration.





Alyn Lunceford <alynl@utcourts.gov>

Facility Standing Committee Members

1 message

Alyn Lunceford <alynl@utcourts.gov>

Mon, May 1, 2017 at 11:54 AM

To: Debra Moore <debram@utcourts.gov>

Judge McVey has served on this committee since February 2013, with his retirement in July we need refill District Court Judge position on the Facility Standing Committee as soon as possible. Will you please put this request for a judge that is interested and willing serve on the Facility Standing Committee?

The committee meets four or five times per year, on Fridays at noon. It is a very small committee so I need someone that can attend all the meetings. Judge McVey will be attending the June 23, 2017 meeting so the first meeting for the new District Court Judge will be September 8, 2017.

Call me if you have any Questions.

—

Alyn Lunceford*Utah State Courts**Administrative Office of the Courts**Facility Director**Office (801) 578-3881**Mobile (801) 949-9773*



Alyn Lunceford <alynl@utcourts.gov>

Facilities Committee vacancy

1 message

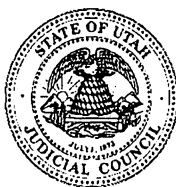
Debra Moore <debram@utcourts.gov>
To: Rick Schwermer <ricks@utcourts.gov>
Cc: Alyn Lunceford <alynl@utcourts.gov>

Mon, May 22, 2017 at 10:17 AM

The Board nominated Judge Brady to fill the position to be vacated by Judge McVey. I'm relying on Alyn to take it from here.

—
Sent from Gmail Mobile

**Committee on Self-
Represented Parties**



Administrative Office of the Courts

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

MEMORANDUM

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester
Date: June 13, 2017
Re: One vacancy to fill on the Committee on Resources for Self-represented Parties

We have one vacancy to fill on the Committee on Resources for Self-represented Parties.

Community Representative

Leticia Bentley, who occupies one of two community representative positions on the committee, has determined that she will not seek another term. Her first term expired at the end of April. Ms. Bentley is from the Moab Multicultural Center and has been very involved in helping non-English speakers navigate the court system. Judge Lawrence and I asked her to recommend a replacement because she represented such a unique perspective as someone who is both from a rural geographic area and who works with underserved populations. She recommended **Kristin Johnson**, who is the Outreach and Education Coordinator at Seekhaven Family Crisis and Resource Center in Moab. Seekhaven is a domestic violence shelter.

Although her resume reflects more of her news reporter background, Ms. Johnson has much experience working with self-represented litigants in her job at Seekhaven. Ms. Johnson explained that she does a lot of advocacy for her clients and understands the challenges facing those who are trying to navigate the court system without a lawyer. She goes to court with her clients for civil issues, such as protective orders, custody, and divorce, and also helps them fill out the accompanying paperwork. She attends court to support domestic violence victims as their perpetrators face criminal charges, to support a victim who has criminal charges as a reactive victim, or for a victim's drug or alcohol charges related to coping with previous violence. She said she regularly attends drug court to support clients who are in recovery. She has also been invited to juvenile court by clients whose children are in Division of Child and Family Services custody. It is clear that Ms. Johnson's job touches many areas of the Utah State Court system.

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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Community Representative for the
Committee on Resources for Self-represented Parties
June 13, 2017
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The Committee on Resources for Self-represented Parties would be pleased to have Ms. Johnson in its vacant community representative position. The Management Committee recommended that she be appointed.

Kristin Johnson
745 Locust Lane
Moab, UT 84532
kristinevajohnson@gmail.com / 435-210-8725

Grant Management

- Wrote \$1 million Community Impact Board (CIB) grant awarded to the Grand County Recreation Special Service District for the construction of the Old Spanish Trail Arena Ballfields. (2011)
- Doubled the contribution from the Associated Students of the University of Washington from \$100,000 to \$200,000 a year as the Director of Student Publications at the University of Washington; increased one-year to \$250,000 in 2007. (2006-2011)
- Wrote \$500,000 Community Impact Board (CIB) grant awarded to Grand County to build the Canyonlands Field Airport terminal. (1997)
- Wrote the \$35,000 Community Impact Board (CIB) grant awarded to Grand County to study economic opportunities along the Colorado River Corridor. (1998)

Budgeting

- Managed an annual self-sustaining budget that averaged between \$1.2 and \$1.5 million to publish a daily newspaper and produce a weekly television program at the University of Washington. (2005-2011)
- Managed the technical side of integrated advertising software; and analyzed sales, page counts, commissions and forecasted budgets based on trends. (2006-2011)
- Managed all books and inventory as the owner of TI Maps, a retail map store in Moab, Utah. (1994-1996)

Program Development

- Developed bi-monthly television program "The Daily's Double Shot" for UWTV, Channel 27, Seattle. (2010)
- Developed multi-media marketing department that included print, online, video, flyers and events at the University of Washington. (2008)
- Developed weekly entertainment publication "W" as an insert to The Daily of the University of Washington. (2009)
- Developed intern program with Dixie State University at The Spectrum newspaper in St. George, Utah. (2001-2002)

Supervision

- Managed a variety of freelance writers, photographers and interns for Moab Sun News. (2012-2014)
- Managed six full-time non-student employees and up-to-150 student employees at The Daily of the University of Washington. (2005-2011)
- Managed variety of free-lance writers for Agribusiness Dairyman and California Fresh Fruit News in Sanger, California. (2003-2005)
- Managed 10 reporters and three photographers for two daily newspapers - The Spectrum and Daily News - in St. George and Cedar City, Utah. (2000-2002)
- Managed freelance columnists for the Lodi News Sentinel, Lodi, California. (1999-2000)
- Earned the Supervisory Skills Certificate and Human Resources Administration Certificate through Professional & Organizational Development at University of Washington.

Education

Utah State University
Bachelor's degree
Major: Journalism
Minor: Psychology
Pursuing Master's in Professional Counseling

Professional Experience

Seekhaven Family Crisis and Resource Center
Outreach and Education Coordinator

Moab Sun News
Managing Editor

University of Washington
Director of Student Publications

Agribusiness Publications
Managing Editor

The Spectrum & Daily News
City Editor

Lodi News Sentinel
Editor

Grand County
Administrative Assistant

The Times-Independent
Reporter & education editor

TI Maps
Owner/ Manager

Honors and Awards

- * Best of Show, National College Media Conference 2010
- * Pacemaker Winner, General Excellence, National College Media Conference 2010
- * Best Overall Newspaper, Society of Professional Journalists, Region X Conference - 2007, 2008, 2009, 2010
- * Apple Award, (Best Overall 4-year college, tabloid-sized newspaper), College Media Advisers Spring Conference - 2006, 2008, 2009 & 2010
- * Pacemaker Finalist 2009
- * National College Media Conference Second Place - Best of Show 2009
- * First Place Column Writing, Society of Professional Journalists Region IX, 1999
- * Second Place Television Photography, Society of Professional Journalists, Region IX, 1999

**Standing Committee on
Children and Family Law**

Memorandum

TO: Judicial Council

FROM: Ray Wahl, Staff, Standing Committee on Children and Family Law (SCCFL)

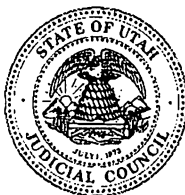
RE: Vacancy on Standing Committee

DATE: June 7, 2017

Judge John Walton's term has expired on this Standing Committee. On several occasions notices were sent to District Court Judges to express interest in serving. Those notices did not result in any interest. Judge Douglas Thomas, Chair of the Standing Committee, took the initiative to recruit Judge Elizabeth Hruby-Mills to serve on the committee and she has agreed. The Standing Committee would recommend her appointment.

Cc: Judge Douglas Thomas

Tab 8



Administrative Office of the Courts

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

MEMORANDUM

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Keisa L. Williams
Date: June 2, 2017
Re: Rule for Public Comment

At the May 9, 2017 Management Committee meeting, the committee discussed proposed amendments to Code of Judicial Administration (CJA) Rule 1-201. This rule establishes the manner and timing for elections of Judicial Council members. Currently, CJA Rule 1-201(1) states, "The term of office of all elected Council members shall begin with the October meeting of the Council." Subsection (2) states, "Election of Council members from courts of record shall take place at the annual judicial conference."

These two provisions have created an issue with the terms of office for new judicial council members because at times the annual judicial conference elections take place after the October council meeting. The Management Committee recommended the proposed amendments to CJA 1-201 at lines 15-16, which would change the start of a new term of office from the October council meeting to the council meeting directly following the annual judicial conference.

Rule CJA 1-201. Membership - Election. Amend. Changes the term start date for new Judicial Council members from the October Judicial Council meeting to the Judicial Council meeting immediately following the annual judicial conference.

On June 2, 2017, the Policy and Planning Committee voted unanimously to recommend the proposed changes as written. If the Council votes to approve this rule, it will be opened for public comment.

Encl. CJA 1-201

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.

1 Rule 1-201. Membership - Election.

2 Intent:

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

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

5 Applicability:

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

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

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

12 Statement of the Rule:

13 (1) The composition of the Council, the term of office of elected Council members, and
14 the electorate of elected Council members shall be as prescribed by law. The term of
15 office of all elected Council members shall begin with the ~~October~~ Council meeting of
16 ~~the Council~~ immediately following the annual judicial conference.

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

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

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

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

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

39 (5) When a judicial member of the Council is unable to attend a Council meeting, that
40 member may designate a judge from the same level of court to attend the Council
41 meeting and observe the proceedings. When the representative of the Utah State Bar is
42 unable to attend a Council meeting, that member may designate a member or ex officio
43 member of the Board of Commissioners to attend the Council meeting and observe the
44 proceedings. The designee shall be provided with a copy of the Council agenda and
45 other meeting materials, and may attend the open and closed sessions of the meeting.
46 The designee may participate in the general discussion of agenda items but may not
47 make motions or vote on Council issues.

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

50 (7) Council members shall not be eligible to serve as voting members of a Board of
51 Judges of a trial court or to serve as members of the standing committees of the
52 Council. The representative of the Utah State Bar may vote at meetings of the Board of
53 Commissioners if permitted to vote under rules governing the conduct of the Board of
54 Commissioners.

55
56 Effective May 1, 2016