

## JUDICIAL COUNCIL MEETING

### AGENDA

**June 25, 2018**

**Council Room**

**Matheson Courthouse**

**450 South State Street**

**Salt Lake City, Utah 84111**

**9:00 a.m. – 12:00 p.m.**

#### *Chief Justice Matthew B. Durrant Presiding*

1. 9:00 a.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant  
(Tab 1 – Action)
2. 9:05 a.m. Chair’s Report ..... Chief Justice Matthew B. Durrant
3. 9:10 a.m. Administrator’s Report ..... Richard Schwermer
4. 9:20 a.m. Reports: Management Committee ..... Chief Justice Matthew B. Durrant  
Liaison Committee..... Justice Thomas Lee  
Policy and Planning ..... Judge Derek Pullan  
Bar Commission..... Rob Rice, esq.  
(Tab 2 – Information)
5. 9:30 a.m. Living Traditions Festival..... Jessica Van Buren  
(Information)
6. 9:35 a.m. Jury Management Logistics ..... Kim Allard  
(Tab 3 – Information)
7. 10:00 a.m. Pretrial Release Committee Report..... Judge George Harmond  
(Information) Jim Peters  
Keisa Williams
8. 10:15 a.m. Board of Juvenile Court Judges Report ..... Judge Jim Michie  
(Information) Dawn Marie Rubio
- 10:35 a.m. Break
9. 10:45 a.m. Indigent Defense Commission Report ..... Joanna Landau  
(Tab 4 – Information) Jojo Liu

10. 11:05 a.m. Senior Judge Certifications ..... Nancy Sylvester  
(Tab 5 – Action)
11. 11:15 a.m. Interim Committee Agendas ..... Jacey Skinner  
(Information)
12. 11:30 a.m. Determination to Fill Third District Court Commissioner Vacancy .....  
..... Judge Randall Skanchy  
(Tab 6 – Action) Peyton Smith
13. 11:45 a.m. Recognition of Council member Judge Mary Noonan .....  
..... Chief Justice Matthew B. Durrant
14. 11:50 a.m. Executive Session
15. 12:00 p.m. Adjourn

### **Consent Calendar**

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

1. Committee Appointments  
(Tab 7) Language Access – Kara Mann  
Education Committee – Tom Langhorne
2. Rules for Public Comment  
(Tab 8) Nancy Sylvester
3. Forms for Final Approval  
(Tab 9) Forms Committee – Brent Johnson
4. Rules for Final Approval  
(Tab 10) Nancy Sylvester
5. Probation Policies  
(Tab 11) Dawn Marie Rubio

# Tab 1



## JUDICIAL COUNCIL MEETING

**Minutes**  
**May 21, 2018**  
**Council Room**  
**Matheson Courthouse**  
**450 S. State St.**  
**Salt Lake City, Utah 84111**  
**9:00 a.m. - 12:00 p.m.**

*Chief Justice Matthew B. Durrant, Presiding*

**Attendees:**

Hon. Kate Toomey, Vice Chair  
Hon. Augustus Chin  
Hon. Mark DeCaria  
Hon. Ryan Evershed  
Hon. Paul Farr  
Justice Thomas Lee  
Hon. David Marx  
Hon. Mary Noonan  
Hon. Kara Pettit  
Hon. Derek Pullan  
Hon. Todd Shaughnessy  
Hon. John Walton  
Rob Rice, esq.

**Staff:**

Richard Schwermer  
Ray Wahl  
Shane Bahr  
Alyn Lunceford  
Jim Peters  
Jeni Wood

**Excused:**

Chief Justice Matthew B. Durrant, Chair  
Dawn Marie Rubio  
Jacey Skinner

**Guests:**

Hon. David Mortensen  
Alex Peterson  
David Wilkins

**1. WELCOME AND APPROVAL OF MINUTES: (Judge Kate Toomey)**

Judge Kate Toomey welcomed everyone to the meeting. Judge Toomey noted Chief Justice Durrant was not able to attend the meeting.

**Motion:** Judge Todd Shaughnessy moved to approve the minutes from the April 16, 2018 Judicial Council meeting. Judge Augustus Chin seconded the motion, and it passed unanimously.

**2. OATH OF OFFICE AND APPOINTMENT OF JUDICIAL COUNCIL COMMITTEE – JUDGE RYAN EVERSLED: (Judge Kate Toomey)**

Judge Toomey administered the Oath of Office to Judge Ryan Evershed. Judge Toomey reviewed the proposed committee appointments for Judge Evershed and Judge Mark May, who will begin his term in June.

**Motion:** Judge Shaughnessy moved to assign Judge Ryan Evershed to the Policy & Planning Committee and assign Judge Mark May to the Liaison Committee. Judge Kara Pettit seconded the motion, and it passed unanimously.

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

Chief Justice Durrant was unable to attend the meeting.

**4. ADMINISTRATOR'S REPORT: (Richard Schwermer)**

Richard Schwermer stated Judge Glen Dawson and Judge Michael Allphin, both from the Second District, have announced their retirement. Keisa Williams has submitted her resignation. Ms. Williams will be working for the Indigent Defense Commission.

Mr. Schwermer discussed a change in the budget-spending plan regarding new servers in Salt Lake and St. George. The courts were able to save \$150,000 by purchasing both servers at the same time. The District Court Judges Conference last week went well.

Mr. Schwermer said former District Court Judge David Roth was elected the new chair of JPEC. Justice Thomas Lee said former Justice Christine Durham would also join JPEC as a member. At a recent meeting, JPEC talked about a number of initiatives they are considering and prioritized the initiatives. JPEC is considering conducting surveys annually rather than the current biannual process. If JPEC implements the annual survey, they will reduce the amount of surveys given to attorneys from nine to four surveys. Additionally, JPEC may implement a self-evaluation component. Mr. Schwermer said JPEC found some states are completing litigant surveys for judges. The most recent survey results showed no judges fell below the minimum statutory standard. Mr. Schwermer said the Judicial Council would receive a copy of judges' scores from the recent survey. JPEC is revisiting the process of evaluating appellate level judges. Judge Derek Pullan said it would be difficult to create a meaningful standard because appellate courts are small institutions. Justice Lee said the principle work product of appellate courts is their published opinions and it would be difficult to develop a consistent process with standards that would function well. Judge Toomey noted the Court of Appeals published over 900 opinions in 2017. JPEC is also in the process of reviewing how justice court judges are evaluated.

Mr. Schwermer said CCJJ is working with the legislature on a jail reimbursement ad hoc committee. Judge McKelvie will serve on the committee. Mr. Schwermer reviewed the district court weighted caseload from April 1, 2017 to March 31, 2018. Mr. Schwermer noted the Third District caseload includes the additional approved new judge for Third District. Mr. Schwermer said all of the AOC employees are now parking on P1, which has opened between 30-40 public spots on P2. Judge Shaughnessy believes the public parking issue could be due to an increase in jury trials.

Ray Wahl said Robin Arnold Williams, former director of Human Services, has passed away. Ms. Williams collaborated well with the courts. There will be a gathering at the State Capitol Auditorium on Wednesday to honor her.

**5. COMMITTEE REPORTS:**

***Management Committee Report:***

The work of this committee is reflected in the minutes.

***Liaison Committee Report:***

Justice Thomas Lee said the committee has not met since before the last Council meeting.

***Policy and Planning Committee Report:***

Judge Derek Pullan said that twice a year, the committee will meet for a full day. The committee is now working on the consolidation of probation cases rules. The District Board and prosecutors have reviewed the proposed rules. Keisa Williams is forwarding the proposal to defense attorneys. There was a subcommittee formed to address the new professional appearance policy. Judge Pullan also discussed how bail commissioners are dealing with felony bails. The records access for LPP's rule was approved. The committee is required to complete an annual review of the Code of Judicial Administration. Rule 4-409 regarding problem solving courts is being reviewed by a new workgroup consisting of three to four district court judges, two juvenile court judges, and Rick Schwermer and/or Dennis Fuchs. The review will also cover mental health courts. The remainder of the work is reflected in the minutes.

***Bar Commission Report:***

Rob Rice said Senior Judge Thomas Higbee was nominated to be the Judge of the Year by the State Bar. Judge Higbee will be presented this award at the Bar Summer Convention in July.

**6. FACILITIES PLANNING COMMITTEE REPORT: (Judge David Mortensen and Alyn Lunceford)**

Judge Toomey welcomed Judge David Mortensen and Alyn Lunceford. Judge Mortensen said Alyn Lunceford announced his retirement for July. Judge Mortensen complimented Mr. Lunceford's work with the courts. Mr. Lunceford reviewed projects the committee is working on. Mr. Lunceford noted the Matheson Courthouse has 17 elevators, and the recent elevator improvement project is a two-year project and is the largest elevator project in the state. Mr. Lunceford reviewed projects in owned and leased courthouses throughout the state. Mr. Schwermer said the courts are able to plan better with the up-to-date information from contractors on the construction of the buildings. Mr. Schwermer thanked Mr. Lunceford for his service of the judiciary. Mr. Wahl noted Mr. Lunceford coordinated the construction of nine courthouses throughout Utah during his employment with the courts.

**7. H.B. 248 LANGUAGE FOR COMPENSATORY SERVICE: (Richard Schwermer)**

Mr. Schwermer discussed proposed compensatory service notice. Mr. Schwermer explained the reasoning behind adding this proposed notice. The compensatory service proposed language reads:

You may request that the Court allow you to perform community service in lieu of paying some, or all, of a fine for class B and C misdemeanors and infractions. Community service will be credited at a rate of \$10/hour. Please contact the court to make an appearance before the judge if you

would like to request community service in lieu of paying your fine.  
(UCA 76-3-301.7)

**Motion:** Judge Paul Farr moved to approve the proposed change. Judge Mary Noonan seconded the motion, and it passed unanimously.

**8. APPROVAL OF 2019 JUDICIAL COUNCIL SCHEDULE: (Ray Wahl)**

Mr. Wahl reviewed the proposed 2019 Judicial Council meeting schedule. Mr. Wahl noted the March 2019 meeting will be in conjunction with the State Bar convention but it is scheduled one week before the legislative session ends. Mr. Wahl said the Bar chose that week due to spring break in St. George. Mr. Schwermer discussed the possibility of holding a meeting at the new Provo courthouse next April, May or June. The February meeting will be moved to February 19. Mr. Wahl recommends waiting until after the legislative session to visit Provo. Mr. Wahl recommends the April 22nd meeting.

**Motion:** Judge Chin moved to approve the 2019 Judicial Council schedule, as amended. Judge Mark DeCaria seconded the motion, and it passed unanimously.

**9. CONSIDERATION OF COMMISSIONER REQUEST FOR EDUCATION  
WAIVER: (Richard Schwermer)**

Mr. Schwermer explained that new judges and commissioners are required to have the Council's approval if they are not going to attend all or portions of the required new judge orientation education course.

**Motion:** Judge Shaughnessy moved to approve the commissioner request for education waiver. Judge Mark DeCaria seconded the motion, and it passed unanimously.

**10. JUDICIAL CONDUCT COMMISSION REPORT: (Alex Peterson)**

Judge Toomey welcomed Alex Peterson. Mr. Peterson reviewed commission members, including new member Senator Jani Iwamoto; current members are Jim Jardine, Terry Welch, Judge David Mortensen, Judge Todd Shaughnessy, Representative Craig Hall, Senator Lyle Hillyard, Neal Cox, and Mark Raymond. Mr. Peterson provided a caseload update. The commission has received 47 cases thus far for FY2018, with two cases pending before the Supreme Court. There have not been any public dispositions. This is below the historical average. Mr. Peterson noted the commission sponsored visitors regarding judicial transparency from Serbia and Southeast Asia. Additionally, the commission provided training at the spring Justice Court Judges Conference, reported to the Supreme Court regarding additions to the Code of Judicial Conduct; established a performance plan for the executive director; and redesigned the commission's website.

Judge Shaughnessy said historically the commission received complaints by mail. The commission has not made a decision yet, but is exploring the option of online complaint forms. Mr. Peterson said the commission's role is to be reactive and not proactive. Mr. Peterson said he has been on the commission for 18 months now and has noticed that although for the most part the public has access to the commission, often, the commission loses track of complainants. Nationally, the challenge of social media is the highest priority. The commission has received

complaints about judges' postings on social media. Mr. Schwermer noted that some states, like Utah, have various rules and ethics opinions regarding judges on social media. Mr. Peterson said there are conflicting interpretations of rules in some states regarding social media.

## **11. EXECUTIVE SESSION**

**Motion:** Justice Lee moved to go into an executive session to discuss a security matter. Judge DeCaria seconded the motion, and it passed unanimously.

## **12. CONSENT CALENDAR ITEMS.**

**1) Committee appointments.** Pretrial Release and Supervision Committee appointment of Judge William Kendall; Child Support Guidelines Committee appointment of Commissioner T.R. Morgan. Approved without comment.

**2) Forms Committee forms.** Abstract of Judgment; Judgment, Information, Statement; Acknowledgement of Satisfaction of Judgment; Application for Writ of Execution; Request for Verification of Employment; Debtors Motion to Declare Judgment Satisfied: Response to Request for Verification of Employment; Writ of Execution; Application for Writ of Garnishment; Notice of Execution and Exemptions; Order on Motion to Declare Judgment Satisfied; Certificate; Reply and Request for Hearing; Writ of Garnishment and Instructions; Writ of Continuing Garnishment and Instructions; Garnishee Answers to Interrogatories for Property Other than Earnings; Garnishee Answers to Interrogatories for Earnings; Notice of Garnishment and Exemptions; Reply and Request for Hearing; Motion to Enforce Writ of Garnishment; Order to Garnishee to Show Cause; Motion to Renew Judgment; Memorandum Opposing Motion to Renew Judgment; Order on Motion to Renew Judgment; Counter Motion Affidavit in Support of Exhibit(s); Exhibit summary; Notice of Withdrawal of Counsel; Notice to Appear Personally or Appoint Counsel; Notice of Appearance or Appointment of Counsel Substitution of Counsel; Initial Disclosures; Certificate of Service of Initial Disclosures; and Parenting Plan. Approved without comment.

**3) Probation policies.** Revisions to 2.1, 2.12, 2.13, 4.2, 4.11, and delete policy 4.1. Approved without comment.

**4) Uniform Fine and Bail Committee – Sunset.** Reauthorized for six years. Approved without comment.

## **13. ADJOURN**

The meeting adjourned.



# Tab 2



**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

June 12, 2018  
Council Room  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84111  
12:00 p.m. – 2:00 p.m.

**Members Present:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kate Toomey, Vice Chair  
Hon. David Marx  
Hon. Mary Noonan

**Staff Present:**

Richard Schwermer  
Ray Wahl  
Jacey Skinner  
Kim Allard  
Shane Bahr  
Cathy Dupont  
Tom Langhorne  
Kara Mann  
Jim Peters  
Dawn Marie Rubio  
Nancy Sylvester  
Keisa Williams  
Jeni Wood

**Excused:**

Hon. Todd Shaughnessy

**Guests:**

David Wilkins

**1. WELCOME AND APPROVAL OF MINUTES: (Judge Kate Toomey)**

Judge Kate Toomey welcomed everyone to the meeting. Judge Toomey noted Chief Justice Durrant would be late to the meeting.

After reviewing the minutes, the following motion was made:

**Motion:** Judge David Marx moved to approve the May 8, 2018 Management Committee meeting minutes. Judge Mary Noonan seconded the motion, and it passed unanimously.

**2. ADMINISTRATOR'S REPORT: (Richard Schwermer)**

Richard Schwermer said the Fourth District Juvenile Court would need 35 days of coverage after Judge Noonan retires. Mr. Schwermer approved the request for 20 days of senior judge coverage. The Fourth District Juvenile Court judges will handle the additional 15 days of coverage.

Mr. Schwermer said the courts finalized a CARE-related contract with Juvenile Justice Services (JJS). The courts received \$550K from JJS for services related to the contract. This one time money will be used for the recent issues with the computer systems including storage, hardware, and firewall upgrades.

Mr. Schwermer next noted there has been progress on the security issues with the Salt Lake County Sheriff's Office. Jacey Skinner said the courts will be meeting with the Sheriff's Office to discuss their contract. Ms. Skinner said the Sheriff's Office appreciates the courts support for seeking additional funding.

The new Lawyer and Judge Well-Being Committee will hold their first meeting next week. There has been positive response received for this program.

**3. PROBATION POLICIES 2.10 and 2.15: (Dawn Marie Rubio)**

Dawn Marie Rubio reviewed the proposed changes to probation policies 2.10 and 2.15. Ms. Rubio explained they are requesting to amend policy 2.10 and delete policy 2.15. There was brief discussion on the proposed revisions.

**Motion:** Judge Toomey moved to approve policy revisions to 2.10, and delete policy 2.15 and put this item on the Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

**4. COMMITTEE APPOINTMENTS: (Kara Mann and Tom Langhorne)**  
**Language Access Committee**

Kara Mann reviewed the Language Access Committee's appointment recommendation for the vacant certified interpreter position.

**Motion:** Judge Marx moved to approve the appointment of Yadira Call to the Language Access Committee and to place this item on the Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

**Education Committee**

Tom Langhorne addressed the Education Committee's chief probation officer and juvenile court judicial vacancy.

**Motion:** Judge Toomey moved to approve the appointment of Judge Kimberly Hornak to fill the juvenile court judicial position to the Education Committee and to place this item on the Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to approve the appointment of Shelly Waite to fill the chief probation officer position to the Education Committee and to place this item on the Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

**5. JURY MANAGEMENT LOGISTICS: (Kim Allard)**

Kim Allard addressed the Matheson Courthouse parking issue on May 22, 2018 where there were 6 jury trials scheduled in the district court, 451 district court hearings scheduled, and

213 jurors were called to report (of which 154 jurors appeared). This caused the public parking level (P2) to be full by 8:15 a.m. Statewide jury trials have declined 7% since FY16, however, in Salt Lake jury trials have increased 12% in the same time period. Jury trials in West Jordan dropped to 4 in the past 10 months in comparison to 13 in FY16. Salt Lake City had 20 more criminal jury trials in the past 10 months than in the same period in FY16.

Ms. Allard will verify if the courts parking validations would be allowed at the overflow parking lot. Suggestions included letting committees know about overflow parking and having security have cards to distribute explaining overflow parking when P2 is full. Mr. Schwermer thanked Ms. Allard for her timeliness in retrieving the data.

**6. FY19 JUSTICE COURT TECHNOLOGY, SECURITY, AND TRAINING  
ACCOUNT EXPENDITURES: (Jim Peters)**

Jim Peters reviewed requests for FY19 justice court technology, security, and training account requests. He provided further explanation on several of the items on the handout. Mr. Peters stated the Board of Justice Court Judges has recommended the expenditures addressed.

- \$278,880 - ongoing grants funds
- \$553,216 - one-time grant funds recommended for FY19
- \$839,000 - projected revenue from FY18
- \$832,096 - total grant awards
- \$6,904 - difference between available funding and recommended grant awards

**Motion:** Judge Toomey moved to approve the budget requests as amended, removing Google accounts for justice court judges and clerks (\$22,500). Judge Marx seconded the motion, and it passed unanimously.

**7. CJA 3-111, 3-407; 4-202.02; 4-202.07; 4-202.09; 4-510.03, 9-109, AND  
“DISCLAIMER LANGUAGE FOR AUTO-DIALER” FOR FINAL ACTION:  
(Keisa Williams and Nancy Sylvester)**

Keisa Williams addressed the proposed changes to rules 3-407; 4-202.02; 4-202.07; 4-202.09; 4-510.03, and “Disclaimer Language for Auto-Dialer.” Ms. Williams noted these rules have completed the public comment period and have been finalized by the Policy & Planning Committee. Judges requested the disclaimer language as they have been hearing from parties in court that because they did not get a phone reminder, they did not appear for their court hearing. Nancy Sylvester addressed the proposed changes to rules 3-111 and 9-109. Ms. Sylvester noted these rules have completed the public comment period and have been finalized by the Policy & Planning Committee. Mr. Wahl requested Ms. Sylvester attend the senior judge meeting during the annual conference to discuss changes to rule 3-111.

**Motion:** Judge Toomey moved to adopt the proposed changes to rules 3-407; 4-202.02; 4-202.07; 4-202.09; 4-510.03, and “Disclaimer Language for Auto-Dialer,” as presented and move this item to the Judicial Council consent calendar. Judge Noonan seconded the motion, and it passed unanimously.

**Motion:** Judge Marx moved to adopt the proposed changes to rule 9-109 as presented effective immediately and move this item to the Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to adopt the proposed changes to rule 3-111 as presented effective November 1 and move this item to the Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

**8. PROFESSIONAL APPEARANCE POLICY 580: (Rob Parkes)**

Rob Parkes presented the revisions to the Human Resources Personnel Policies and Procedure Manual. Professional Appearance 580. Mr. Parkes said a statewide committee was formed in October 2017 to review and revise the current professional appearance policy. The recommendation is to remove the current professional appearance policy from the current Code of Personal Conduct 500 and create a standalone policy.

There was a concern expressed about the gender differences in the policy. Mr. Schwermer said he met with Judge Shaughnessy and Judge Pettit to discuss the policy and they expressed concern about the draft policy. Mr. Parkes said there have been discussions about allowing the policy to be amended in each district, and the committee decided against that. There may need to be something added to the policy regarding outside agencies who appear in court and their attire but the focus was now on the internal policy. While it was rejected by Policy and Planning, some were in favor of a statement to employees to dress appropriately and have a trial period to see how worked in the districts. The discussion recognized the challenge in addressing all aspects of appearance.

The managers who attend the meeting felt like a definitive policy was necessary to address issues with the small number of employees that were not dressing appropriately. Judge Toomey recommended sending the Human Resources Personnel Policies and Procedure Manual. Professional Appearance 580 to Policy & Planning Committee for further drafting and to discuss consistency, gender issues, and whether the policy should be state-wide or district/building-wide.

**9. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Durrant)**

Chief Justice Durrant addressed the proposed agenda for the June 25, 2018 Judicial Council meeting.

**Motion:** Judge Toomey moved to approve the Judicial Council agenda as amended. Judge Marx seconded the motion, and it passed unanimously.

**10. EXECUTIVE SESSION**

An executive session was not held.

**11. ADJOURN**

The meeting adjourned.

**Policy and Planning Committee**

Council Room – N31  
Matheson Courthouse  
450 South State Street  
Salt Lake City, UT

**DRAFT**

June 1, 2018  
12:00 – 2:00 pm

**Members Present:**

Judge Augustus Chin  
Judge Derek Pullan, Chair  
Judge Mary Noonan – via telephone  
Judge Kara Pettit  
Rob Rice  
Judge John Walton – via telephone

**Members Excused:**

**Staff:**

Keisa Williams  
Minhvan Brimhall

**Guests:**

Chris Palmer  
Rob Parkes – via telephone conference  
Nancy Sylvester

**(1) Welcome and Approval of Minutes**

Judge Pullan welcomed the members to the meeting. Judge Pullan addressed the May 4, 2018 minutes. There being no changes, Rob Rice made a motion to approve the minutes as written. Judge Noonan seconded the motion and it passed unanimously.

**(2) Rules back from public comment:**

CJA 9-109. Presiding Judges

Nancy Sylvester discussed the rule. The second comment period has closed with one comment received. The comment recommended that the word “media” be included in the rule. Ms. Sylvester stated that the exclusion of “media” was an oversight and suggested that it be added to subsection (3)(D)(i).

With no additional comments or recommendation from the Committee, Judge Chin made a motion to send CJA 9-109 to the Judicial Council for final approval. Mr. Rice seconded the motion and it passed unanimously.

**(3) CJA 3-414. Court Security:**

Chris Palmer discussed proposed changes to CJA 3-414. The proposed changes would provide clarification to law enforcement agencies about the requirement to provide bailiffs in some, if not all, court proceedings. This proposal came after discussions Mr. Palmer had with law enforcement and the Judicial Council. The Committee reviewed the proposal and the relevant language in Utah Code §17-22-2. Jacey Skinner is meeting with legislators about potential

changes to the statute and Mr. Palmer will be talking to law enforcement. Judge Pullan noted that it may or may not be necessary for bailiffs in certain types of uncontested civil cases, or strictly procedural hearings which include attorneys only. Mr. Palmer stated that the cases with the most security issues are civil hearings. The Committee considered language which would give the presiding judges discretion about whether a bailiff is necessary. After discussion, the Committee determined that allowing discretion would create an issue with consistency across the state.

The Committee asked Mr. Palmer what these requirements are based on and whether there are any best practice standards nationally regarding staffing requirements in court proceedings. Mr. Palmer stated that the National Center for State Courts does not have a standard for staffing and no other state requires staffing at all court locations. Unincorporated court systems (Wisconsin, Michigan, etc.) bailiff staffing requirements are set at a county-by-county level. There is no uniform guidance from any statewide court system. Mr. Palmer stated that the federal court system requires bailiffs in every court proceeding. The U.S. Marshalls run court security for the federal courts. Mr. Palmer stated that in Utah Courts, there are 30% more first-time security incidents in civil hearings than criminal. However, he does not have a breakdown of incidents by specific types of civil hearings.

Mr. Palmer discussed the lack of bailiff resources in various buildings. Sometimes bailiffs must be pulled off the security screening points at the doors of buildings in order to have enough bailiffs for court proceedings. The difficulty with that is that it increases screening time and security incidents inside the common and secured areas of the buildings. Mr. Palmer discussed the increased need for bailiffs during jury trials.

Judge Walton stated that in his court, the calendars are made up of various types of hearings on any given day. If the rule delineates by hearing type, the rule may become ineffective or nullified. In addition, regardless of the hearing type, there are usually members of the public sitting in the gallery waiting for other hearings. Mr. Palmer stated that he is concerned about the public as much as, if not more than, judges. The Committee determined that the primary purpose of court security should be the protection of the public and the Court should mirror the federal standard. The Committee considered the need for bailiffs in both justice and district courts. The Committee determined that the rule should not cover telephonic or remote proceedings. The Committee amended the language to state that court bailiffs are required "...at all in-person criminal, civil, and juvenile proceedings in courts of record and not of record."

The Committee asked Mr. Palmer to research any federal rules or CFR pertaining to court security that the Utah Courts could use as a model. Mr. Palmer's research will be circulated to Committee members via email in the next week for discussion. The language may be edited further pending the email discussion.

With no additional comments or recommendations from the Committee, Judge Noonan made a motion to proceed as discussed. Judge Pettit seconded the motion and it passed unanimously.

#### **(4) BDCJ Proposed Rule Change**

Judge Pullan discussed proposed changes to the BDCJ rule on the consolidation of probation cases. At the May meeting, the Committee recommended that the rule draft be circulated to UACDL and SWAPP for comment. However, after a discussion with Shane Bahr, the District Court Administrator, the Committee learned that the rule proposal was circulated to those agencies for comment in October 2017.

Judge Pullan outlined several proposed changes, including:

- **Statement of the Rule:**
  - (1)(E): changing “more than 6 months” to “up to one year”
  - (3): asking Ms. Williams to research whether minute entries could be included in the records of both cases so that each record is complete
  - (4)(C): same as (3)
  - (4)(D)(i): same as (3)
  - (4)(D)(ii): Deleted in its entirety as unnecessary
- **Representation of Counsel:**
  - (5)(C): changing “a sending case” to “subsequent conviction cases” because “sending case” is not defined anywhere in the rule and it is referring to subsequent cases
- **Agreement Required, Reverse Transfer Allowed:**
  - (8): asking Ms. Williams to determine whether the statement is redundant with subsection (4) under “Applicability”
  - (8)(A): asking Ms. Williams to craft language limiting the timing of objections – transfer is presumed unless an objection is made within 7 days of imposition of sentence in the sending court

Mr. Rice made a motion for Ms. Williams to revise the rule pursuant to the discussion and comments made by the Committee, as well as a motion to keep section (8)(C) in the rule as currently written. Judge Pettit seconded the motion. Judge Pullan opposed the inclusion of section (8)(C). The motion was passed. This rule will be added to the August meeting agenda.

#### **(5) Human Resources Professional Appearance Policy**

Mr. Rice, Judge Pettit, and Rob Parkes presented their edits to the Human Resources Professional Appearance Policy based on the Committee’s guidance at the March meeting. The Committee discussed the difference between the guidelines for business casual and courtroom attire and whether there was a need for two different requirements. The Committee discussed employees’ ability to wear collared polo shirts with court logos in the courtroom and the difference between, and appropriateness of, various articles of denim clothing. The collared polo shirt issue is only related to 3<sup>rd</sup> District. Those shirts are not worn by employees in any other courtroom in the State.

After discussion, the Committee made the following decisions/edits:

- There should be two different guidelines - business casual and courtroom
- Collared polo shirts should not be worn in the courtroom
- Professionally appropriate leggings or tights may be worn under skirts or dresses in the courtroom (but not tunics)

- Under the business casual guidelines addressing denim, “material” should be replaced with “jeans”
- The photo of the denim jacket under Courtroom Guidelines should be removed
- The second sentence of the Purpose statement should end with, “...throughout the courthouse and in the community.”
- On the Essential Guidelines page, under Tattoos and Piercings, the first line should read, “Visible tattoos on face are not allowed.”
- The photo of the man with the neck tattoo should be changed to a person with a face tattoo and the language underneath should read, “Visible tattoos on face are prohibited.”
- On the photos of the Casual Day Guidelines, the language under the man in the T-shirt should read, “T-shirts alone are prohibited.”

Mr. Parkes will make the recommended changes to the proposed policy and send them to Ms. Williams who will get them included on the Management Committee/Judicial Council’s agenda for approval.

Mr. Rice made a motion to recommend the adoption of the policy, with the changes outlined by the Committee, to the Management Committee and Judicial Council for approval. Judge Chin seconded the motion and it passed unanimously.

#### **(6) Problem Solving Court Working Group Update**

Judge Walton stated that the working group has not yet begun its work. Judge Walton will only be able to participate primarily via telephone so someone else would need to be the Chair. Judge Pullan stated that the Board of Juvenile Court Judges are having an emergency meeting via telephone and will identify the remaining members.

#### **(7) Adjourn**

The July meeting is canceled. The next meeting is scheduled for August 3, 2018 in the Judicial Council room at 12:00 p.m. There being no other business the meeting was adjourned at 2:05 pm.

# Tab 3





Kim Allard &lt;kima@utcourts.gov&gt;

## Matheson Courthouse Traffic 5/22/18

Kim Allard <kima@utcourts.gov>  
To: Kim Allard <kima@utcourts.gov>

Mon, Jun 4, 2018 at 4:29 PM

On Tue, May 22, 2018 at 5:49 PM, Kim Allard <kima@utcourts.gov> wrote:  
Matheson Courthouse District Court Traffic 5/22/18

- A record number of jury trials went forward on 5/22/18 (6 trials).
  - 213 jurors were called to report
  - 154 jurors appeared.
  - 18 jurors either rode public transportation or parked somewhere other than the Matheson Courthouse
- 451 district court hearings were scheduled for 5/22/18
  - 154 of those hearings were for mental health court.

154 jurors for 6 trials is 25.6 possible jurors per trial. Jury staff are doing everything they can to optimize juror usage.

### Hearings Scheduled in Matheson Courthouse 5/22/18

Hearing Type	Cases
Arraignment	8
Arraignment City	1
Arraignment State	11
Bench Trial	3
Bench Warrant Hrg	38
Change of Plea	5
Civil Bench Warrant	7
Initial Appearance	22
Jury Trial	8
Law and Motion	70
MHC Review	154
Order to Show Cause	24
Preliminary Hearing	45
Pretrial Conference	10
Protective Order	22
Restitution Hearing	1
Review Hearing	7
Scheduling Conf	10
Sentencing	5
Supplemental Order	8
Grand Total	459

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Kim Allard  
Court Services Director  
Administrative Office of the Courts  
450 State St  
Salt Lake City, Utah 84114  
[kima@utcourts.gov](mailto:kima@utcourts.gov)



Kim Allard &lt;kima@utcourts.gov&gt;

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## Jury Trials Held

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Kim Allard &lt;kima@utcourts.gov&gt;

Tue, May 29, 2018 at 5:11 PM

To: Rick Schwermer &lt;ricks@utcourts.gov&gt;, Shane Bahr &lt;shaneb@utcourts.gov&gt;, Ray Wahl &lt;rayw@utcourts.gov&gt;

Cc: Heather Marshall &lt;heathernm@utcourts.gov&gt;

Heather finished her analysis of jury trials being held. She compared the first 10 months of the last 3 fiscal years. Statewide trials are down 7% since the same time period in FY16.

Salt Lake County, however, has had a 12% increase in jury trials. It looks like this:

FY16 93

FY17 99

FY18 104

The increase is exacerbated in Salt Lake City because the number of jury trials held in West Jordan dropped from 13 in FY16 to 4 in the last 10 months.

Salt Lake City saw 20 more criminal trials in the last 10 months than in the same period in FY16.

On a related note, Provo also had more criminal trials this year than last year, but it's the same number as the year before last.

Thanks to Heather.

[Quoted text hidden]

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Kim Allard

Court Services Director

Administrative Office of the Courts

450 State St

Salt Lake City, Utah 84114

[kima@utcourts.gov](mailto:kima@utcourts.gov)

20180529-Jury Trials by Fiscal Year 10mo Summary .xlsx  
12K

## Jury Trials by Fiscal Year\*

Each Fiscal Year is July 1-April 30

Location	FY16	FY17	FY18
<b>Criminal</b>	<b>180</b>	<b>179</b>	<b>178</b>
<b>District 1</b>	<b>7</b>	<b>4</b>	<b>5</b>
Brigham City District	4	3	4
Logan District	3	1	1
<b>District 2</b>	<b>21</b>	<b>24</b>	<b>21</b>
Bountiful District		1	1
Farmington District	5	7	5
Layton District		1	1
Morgan District	2		
Ogden District	14	15	14
<b>District 3</b>	<b>94</b>	<b>100</b>	<b>105</b>
Salt Lake City District	80	83	100
Silver Summit District	1		1
Tooele District		1	
West Jordan District	13	16	4
<b>District 4</b>	<b>32</b>	<b>24</b>	<b>32</b>
American Fork District	4	1	4
Fillmore District	3	4	1
Heber City District	3	3	
Nephi District	5		1
Provo District	15	12	23
Spanish Fork District	2	4	3
<b>District 5</b>	<b>11</b>	<b>13</b>	<b>6</b>
Beaver District	1		
Cedar City District	2	5	4
St. George District	8	8	2
<b>District 6</b>	<b>3</b>	<b>4</b>	<b>2</b>
Junction District			1
Kanab District	2	2	1
Manti District	1		
Richfield District		2	
<b>District 7</b>	<b>4</b>	<b>6</b>	<b>5</b>
Moab District		1	
Monticello District		5	2
Price District	4		3
<b>District 8</b>	<b>8</b>	<b>4</b>	<b>2</b>
Duchesne District	7		1
Manila District	1		
Vernal District		4	1

Location	FY16	FY17	FY18
<b>Civil</b>	<b>59</b>	<b>57</b>	<b>45</b>
<b>District 1</b>	<b>2</b>	<b>1</b>	<b>1</b>
Logan District	2	1	1
<b>District 2</b>	<b>8</b>	<b>9</b>	<b>11</b>
Farmington District	5	5	5
Ogden District	3	4	6
<b>District 3</b>	<b>33</b>	<b>33</b>	<b>27</b>
Salt Lake City District	25	26	23
Silver Summit District	3	2	4
Tooele District	1	1	
West Jordan District	4	4	
<b>District 4</b>	<b>9</b>	<b>8</b>	<b>4</b>
American Fork District	2		
Fillmore District		1	
Heber City District	1	1	
Nephi District	1		
Provo District	5	5	4
Spanish Fork District		1	
<b>District 5</b>	<b>5</b>	<b>4</b>	<b>1</b>
Cedar City District		1	
St. George District	5	3	1
<b>District 6</b>		<b>1</b>	
Loa District		1	
<b>District 7</b>	<b>1</b>		
Moab District	1		
<b>District 8</b>	<b>1</b>	<b>1</b>	<b>1</b>
Duchesne District	1	1	1
<b>Grand Total</b>	<b>239</b>	<b>236</b>	<b>223</b>

# Tab 4



# **UTAH INDIGENT DEFENSE COMMISSION 2017 ANNUAL REPORT**

## **Indigent Defense Commission Staff**

Joanna Landau = Director

Jojo Liu = Assistant Director

Taylor Mosolf = Research & Data Analyst

Darien Hickey = Grants Program Specialist

## **Utah Indigent Defense Commission Office**

370 E South Temple, Suite 500 Salt Lake City, Utah 84111

**The Utah Indigent Defense Commission (IDC) was created in 2016 to help the State ensure its local indigent defense services meet the requirements of the United States and Utah Constitutions, and Utah law.**

### **2017 – 2018 IDC Membership and Nominating Entity**

**Chair Michael Zimmerman**, Zimmerman Booher, Utah Judicial Council

**Utah State Senator Todd Weiler**, District 23 Legislature

**Kim Cordova**, Executive Director, Utah Commission on Criminal and Juvenile Justice

**Richard Schwermer**, State Court Administrator, Administrative Office of the Courts

**David Shawcroft**, Utah County Attorney's Office, Civil Division, Utah Assoc. of Counties

**Claudia Jarrett**, Sanpete County Commissioner, Utah Assoc. of Counties

**Nicole Cottle**, West Valley City Assistant City Manager, Utah League of Cities and Towns

**Ryan Loose**, South Jordan City Attorney, Utah League of Cities and Towns

**Sam Alba**, Snow Christensen & Martineau, Utah Minority Bar Association

**Margaret Lindsay**, Utah County Public Defender, Utah Parental Defense Alliance

**Pam Vickrey**, Utah Juvenile Defenders, Utah Association of Criminal Defense Lawyers (UACDL)

**Wally Bugden**, Bugden & Isaacson, UACDL

**Mary Corporon**, Christensen & Jensen, UACDL

**Richard Mauro**, Salt Lake Legal Defender Association, UACDL

### **Message from the IDC Chair Michael Zimmerman**

Entering my second year as Chair of the Utah Indigent Defense Commission, I am grateful for this opportunity to help report on the 2017 work and accomplishments of the Utah Indigent Defense Commission.

2017 marked the first year in Utah's history that a state Commission oversaw the spending of state money to subsidize local indigent defense services. This was a big step forward in creating a true state and local partnership to ensure constitutional indigent defense services throughout the state.

The IDC awarded one 2017 calendar year grant, but in 2018, six local governments received IDC grant awards (four counties and two cities). The dedication of the Commissioners, and tireless work of our IDC Staff in educating and assisting local governments with applications, brought us well-crafted grant applications and local entities who were eager to work with the IDC to enhance their local indigent defense services.

The Legislature's support has been critical to enable the IDC to fulfill its mission to help local governments. We extend particular thanks to Senator Weiler, the sponsor of the IDC legislation and a dedicated advocate for our work. Appropriations are the backbone of our work for the State. The Judiciary and Executive branch have also been essential partners in supporting our work.

This report gives an overview of the IDC's work in its first full year with staff. It highlights the local governments that are successfully improving their Constitutional services for indigent people, by working with the IDC. We look forward to continued opportunities for improvement. Thank you.

**– 2017 LEGISLATURE –  
NEW STATUTORY DUTIES, IDC  
COMMISSIONERS & IDC STAFF**

In the 2017 Legislative Session, SB134 expanded the IDC’s mandate from adult criminal defense to include overseeing the constitutionality of court-appointed counsel for juveniles in delinquency actions and parents in child welfare cases. Two new IDC commissioners and staff joined the IDC to expand its indigent defense expertise in these areas of the law.

### **New IDC Commissioners**

**Pamela Vickrey** joins the IDC as the Executive Director of the Utah Juvenile Defender Attorneys in Salt Lake City, an independent office dedicated to vigorously representing youth in delinquency cases. Her national service to youth and juvenile justice is unparalleled, and Ms. Vickrey is a nationally-certified trainer for juvenile defense attorneys. In Utah, she has been critical to many legislative reforms to help youth across the state.

**Margaret Lindsay** brings to the IDC, her experience as an Assistant Director in the Utah County Public Defender Association where she oversees the Juvenile Court and Appellate Divisions. Ms. Lindsay has represented children in delinquency actions and parents in parental rights termination cases for many years, and she serves on many boards and legal committees.

### **New Staff**

**Assistant Director Jojo Liu** joined the IDC staff in June 2017. Previously a visiting professor at the University of Utah College of Law, Ms. Liu spent a decade, before moving to Utah, as the Clinical Director at the Center for Juvenile Law and Policy at Loyola Law School. There she defended children, while working to improve the quality of defense representation in the nation’s largest juvenile justice system.

**Grants Program Specialist Darien Hickey** joined the IDC staff in October 2017, to develop and oversee the IDC’s grant program with local governments. She holds a Master’s Degree in Sociology, and previously worked to ensure Utah’s compliance with the Federal Juvenile Justice Delinquency Prevention Act through Utah’s Commission on Criminal and Juvenile Justice. Before moving to Utah, she helped to implement Louisiana’s statewide justice reform initiative.

### **2018 MEETING SCHEDULE**

**Meetings.** The IDC met monthly in 2017, but will meet less frequently as a full Commission in 2018 to allow for more subcommittee and staff work between meetings.

*All 2018 meetings are at **2:00 pm** at the IDC Office  
370 E South Temple, Suite 500.*

**January 11, 2018**

**February 22, 2018**

**May 10, 2018**

(grant review meeting)

**July 18, 2018**

**November 8, 2018**

(grant review meeting)

**December 6, 2018**

The IDC has accomplished a tremendous amount in its first full year of work.

**Staff.** The IDC Director was hired in October 2016, and now oversees three fulltime staff and interns.

**Grants.** The IDC developed a grant application to allow local governments to apply for IDC grants (from Legislative appropriations) to improve local indigent defense services. The application also helps the IDC to collect data about local services, and determine how best to use state money to improve local indigent defense services.

**IDC Core Principles for Indigent Defense Systems.**

The IDC is charged with developing principles to help guide the delivery of constitutionally effective indigent defense services in the state. There is no one way to provide constitutionally effective defense representation, but these principles establish the minimum standards required for local governments to ensure a constitutional indigent defense system. To receive IDC grants, local governments must commit to complying with these principles.

**The IDC grant application and Core Principles are at:**

<https://justice.utah.gov/indigent-defense.html>

**Utah Code § 77-32-301(1), requires Utah's local governments to provide all Constitutional indigent defense services.**

**Therefore, any County or City that prosecutes cases, must also provide constitutionally effective indigent defense services.**

**All 29 Counties and around 158 cities fall under this mandate and are all therefore eligible for IDC grants.**

**6<sup>th</sup> Amendment Education.** The IDC makes recommendations to leadership in state government, and in local governments, about ways to improve the constitutionality of local indigent defense services in the state.

IDC staff travelled throughout the state in 2017, to promote the IDC's work and communicate with local governments about the importance of ensuring constitutionally effective defense representation in their courts. Many hardworking local government leaders expressed gratitude for these presentations explaining the complexities of their indigent defense responsibilities.

***The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.***

**- Gideon v. Wainwright**

1963 United States Supreme Court case determining the 6th Amendment Right to Counsel was fundamental and applied to the states.

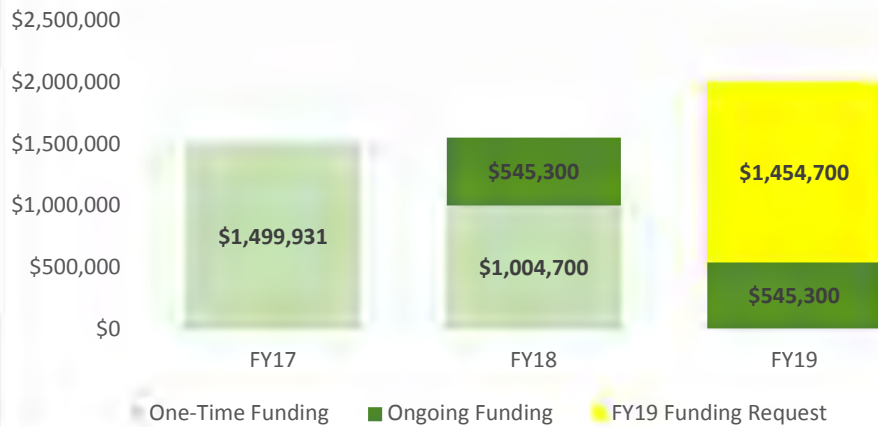
**2017 Presentations**

- *Local governments.* IDC staff presented to County Commission, and City and County Council meetings throughout the state.
- *UAC & ULCT Presentations.* Staff presented to annual meetings and a UAC Management Conference.
- *Judiciary.* Reports were made to the Judicial Council, the Board of Justice Court Judges, and the Utah Supreme Court.
- *Legislative.* IDC staff reported to the Legislature in the 2017 General Session and interim meetings, to discuss IDC work, preliminary data, and the importance of ongoing funding for IDC grants.
- *Executive.* The IDC is an independent agency in the Commission on Criminal and Juvenile Justice, and regularly communicates with Executive Branch leadership about its work and the state's responsibilities for ensuring constitutional indigent defense.
- *Utah State Bar Commission and other attorney conferences.* Support from the private bar is critical to the work of public defenders, but the private bar often has no experience with public defense work.

### FY18 Indigent Defense Commission Appropriations



### Total Grant Funding Appropriated & FY19 Funding Request



### FY18 Personnel Spending & FY19 Building Block Request



## IDC GRANT AWARDS/SPENDING

Using legislative appropriations, the IDC awarded several grants in 2017 and early 2018. The grants are used to reimburse local governments for improved indigent defense services on top of their historic local indigent defense spending. IDC grants may not supplant local spending.

GRANT RECIPIENT	GRANT AMOUNT	TERM YEARS
JUAB COUNTY (2017)	\$95,924	1
JUAB COUNTY (2018)	\$915,939	3
UTAH COUNTY	\$1,398,144	2
NEPHI CITY	\$59,700	3
SALT LAKE COUNTY	\$368,530	2
UINTAH COUNTY	\$149,000	1
OGDEN CITY	\$28,824	3
<b>TOTAL</b>	<b>\$3,016,060</b>	

**Juab County Pilot Project Grant.** The 2017 Juab County grant achieved dramatic improvements to local indigent defense services.

Using \$95,923.82 of IDC grant money (slightly less than originally budgeted), on top of Juab's local budget of \$115,200, the County replaced its sole contractor with seven attorneys: allowing for conflicts of interest to be properly identified, specialized attorneys to appear on criminal and juvenile appointed cases, and investigators and experts to fully test the prosecution's evidence. Additionally, with balanced caseloads, these attorneys were able to appear early in their cases, fully investigate the evidence, and ensure busy criminal court calendars ran more efficiently while still improving client services in the county.

**Juab 2018-2020 Grant.** Building on the success of the 2017 grant, the 2018 IDC grant to Juab County, adds more defense resources: to ensure attorneys

stay abreast of developments in criminal and juvenile law through continuing legal education classes, travel reimbursements, administrative assistance, and for the first time ever in Utah, a social worker employed to help defense attorneys representing indigent parents in state-initiated termination cases, ensure parents attend all necessary meetings and hearings, and increase the likelihood of reunification or move children more efficiently toward other permanency options. **Juab is receiving up to \$915,939 over 3 years for these services.**

**Nephi City.** The attorneys providing representation in Juab County Courts are now working with Nephi City to represent its clients charged in justice court. **Nephi City is receiving \$59,700 over 3 years for attorneys, training, and defense resources.** We have repeatedly held that one of criminal defense counsel's most fundamental obligations is to investigate the underlying facts of a case. This duty is not optional, it is indispensable, and failing to investigate because counsel does not think it will help does not constitute a strategic decision, but rather an abdication of advocacy. **State v. Lenkart, 2011 UT 27, The Court reversed convictions for rape, sodomy, and sexual abuse where trial counsel failed to investigate and present important exculpatory physical evidence at trial.**

**Utah County.** This County is critical to the IDC's mandate to centralize indigent defense services.

The Utah County Public Defender Office is a longstanding public defender office, with whom the IDC is working to supervise attorneys representing clients through IDC grants in Juab County and Nephi City. The Utah County Public Defender has not had a sufficient budget increase to keep up with increased cases and workloads. **With the County's cooperation, Utah County is receiving up to \$1,398,144 over 2 years for additional attorneys and increased defense resources.**

**Ogden City.** Ogden City is the first municipality to receive IDC grant funding for its innovative program to ensure its contract-defense attorneys in its justice court have early access to discovery. This allows attorneys to better determine the sufficiency of the evidence, the reasonableness of any plea agreements, and otherwise provide more effective, early representation; another bellwether of constitutional indigent defense. ***Ogden was awarded \$28,824 over 3 years.***

**Ensuring appropriate attorney workloads, is a hallmark of constitutional indigent defense.**

**The American Bar Association's Ten Principles of a Public Defense Delivery System, require that:**

***Defense counsel's workload is controlled to permit the rendering of quality representation.***

When an attorney is appointed on too many cases, she has insufficient time for each client, cannot investigate evidence or her clients' circumstances, cannot seek pretrial release, cannot explore legal issues, and cannot prepare for hearings or trial, which are all critical to constitutional representation.

Unnecessary incarcerations result when defense attorneys cannot take these steps.

**Uintah County.** Uintah County made significant improvements to its indigent defense services in 2016, which increased local spending. Facing decreasing County revenues in 2017, the County sought a grant from the IDC to maintain the already improved services. The IDC worked with County officials and defense attorneys to determine the best use of IDC funds to maintain and further improve local services. ***Uintah County is receiving \$149,000 for 2018, to increase attorneys, provide training, and access more defense resources.***

**Nephi City.** The attorneys appearing on Juab County's appointed cases, are now additionally working in Nephi City to represent its indigent clients charged in justice court. IDC money is being used for defense resources in the City, allowing for investigations and research in appointed cases. ***Nephi City is receiving \$59,700 over 3 years for more attorneys, training, and defense resources.***

**SLCO & Operation Rio Grande.** The IDC awarded Salt Lake County a grant to allow the Salt Lake Legal Defender Association (LDA) to hire two attorneys for the increased workload from the Operation Rio Grande arrests. The increase in cases was causing LDA attorneys to struggle to provide constitutional defense services. The additional attorneys helped alleviate these caseloads. ***SLCO is receiving \$368,530 over 2 years for 2 new full time attorneys to help alleviate appointed caseloads resulting from Operation Rio Grande.***

**With these grants, the IDC's FY2016 and FY2017 appropriations are nearly all obligated, making additional ongoing legislative appropriations essential.**

**IDC staff continues to educate and encourage local governments to make improvements to local defense services throughout the state.**





## CORE PRINCIPLES FOR INDIGENT DEFENSE SYSTEMS

## USER STATEMENT

This document, adopted by the Utah Indigent Defense Commission in August 2017, sets forth core principles for the provision of indigent defense representation in the State of Utah.<sup>1</sup> These principles are intended to encompass the provision of indigent defense services in three defined areas of practice—criminal defense, delinquency defense, and parental defense.

The purpose of these principles is twofold:

1. To provide guidance to government officials, policymakers, and other entities who are charged with providing, overseeing, assessing, and/or funding indigent defense systems<sup>2</sup>; and
2. To provide a yardstick for measuring the extent to which an indigent defense system ensures that individual attorneys within that system have the knowledge, ability, resources, and independence necessary to provide effective representation.

## UTAH INDIGENT DEFENSE COMMISSION

The Utah Indigent Defense Commission was created by legislation in 2016 to help the state ensure its indigent defense services are consistent with the United States and Utah Constitutions.

The membership of the Commission includes key leaders in state and local government, criminal defense, indigent defense services, and the courts.

The Commission works with the state, local governments, indigent defense providers, and other stakeholders to: provide guidance on standards for constitutional representation, gather data and information about local indigent defense services, award grants to improve local indigent defense services, and encourage and aid in the regionalization of indigent defense services throughout the state.

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<sup>1</sup> The Indigent Defense Commission is mandated to “develop and adopt guiding principles for the assessment and oversight of indigent defense systems with[in] the state(…)” Utah Code §77-32-804(1)(a)

<sup>2</sup> “Indigent Defense System” or “System” refers to the local government entity responsible for providing indigent defense services, and includes a county, city, town or a regional legal defense service provider. Utah Code §77-32-201(9)(a)-(b)

## **PRINCIPLE 1/ ORGANIZATIONAL CAPACITY OF DEFENSE SYSTEM IS SUFFICIENT TO ENSURE COMPLIANCE WITH CORE PRINCIPLES**

The ability to meet the principles articulated below requires a threshold resource capacity- for example, adequate budget, administrative resources, and sufficient oversight capacity to monitor compliance with these systemic principles.

To the extent an indigent defense system lacks such resources, efforts shall be made to expand the system's organizational capacity—for example, through the pursuit of interlocal, resource-sharing agreements and through the pursuit of any available grants and/or other funding sources.

## **PRINCIPLE 2/ SYSTEM PROVIDES COUNSEL TO ALL ELIGIBLE DEFENDANTS, MINORS, AND RESPONDANTS WHO DO NOT KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY WAIVE COUNSEL**

The U.S. Constitution and Utah Constitution both guarantee the right to counsel to all accused persons facing any possibility of incarceration or detention, regardless of financial status. Utah statute guarantees the right to counsel to indigent parents or legal guardians subject to child welfare proceedings and/or a petition to terminate their parental rights, regardless of financial status.

Accordingly, indigent defense systems shall cooperate with the courts to ensure that the financial eligibility determination and appointment process is free from unnecessary barriers and free from any explicit or implicit pressure to waive counsel.

## **PRINCIPLE 3/ SYSTEM PROVIDES PROPER SCOPE OF REPRESENTATION**

Effective representation commences in a timely manner, extends for the proper period of representation, and proceeds with reasonable continuity.

Accordingly, indigent defense systems shall ensure that the right to counsel extends to accused persons in criminal matters at all critical stages.<sup>3</sup> Indigent parties in delinquency and child welfare proceedings shall be represented at all stages of the juvenile court proceedings.<sup>4</sup>

Indigent defense systems shall ensure that, as soon as feasible, clients are screened for eligibility and defense counsel are assigned and notified of appointment. The same attorney shall continuously represent the client, where feasible, until completion of the case.

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<sup>3</sup> Utah Code §77-32-804(1)(a)(iv)(A) ("Accused persons in criminal cases shall be provided counsel at all critical stages.")

<sup>4</sup> Utah Code §77-32-804(1)(a)(iv)(B) ("Indigent parties in juvenile delinquency and child welfare proceedings shall be provided counsel at all stages.")

#### PRINCIPLE 4/ SYSTEM PROVIDES REPRESENTATION THAT IS INDEPENDENT & FREE FROM INTERFERENCE

Indigent defense counsel's primary and most fundamental responsibility is to promote and protect the interests of the client. Defense counsel, therefore, shall be free to defend the client zealously, based on counsel's own judgement, and without fear of termination, reduction in compensation, reduction in staff, or reduction in defense resources.<sup>5</sup> The selection, funding, and payment of defense counsel should be independent of the judiciary and independent of any prosecution entity.<sup>6</sup>

#### PRINCIPLE 5/ SYSTEM RECOGNIZES DISTINCT AREAS OF SPECIALIZATION WITHIN INDIGENT DEEFENSE

Indigent defense encompasses distinct areas of practice- criminal defense, delinquency defense, parental defense, and appellate advocacy. Each is its own area of specialization, requiring a set of skills and knowledge distinct from what is required to practice in any other area.

Indigent defense systems, therefore, shall provide employment and contracting arrangements that separately account for criminal defense, delinquency defense, parental defense and appellate advocacy.<sup>7</sup>

#### PRINCIPLE 6/ SYSTEM ENSURES THE RIGHT TO APPEAL

Indigent defense systems shall provide counsel for any first appeal of right.<sup>8</sup>

Indigent defense systems, shall separately account for the provision of appellate services to ensure the right to appeal.<sup>9</sup>

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<sup>5</sup> Utah Code §77-32-804(1)(a)(i) ("Indigent defense service providers shall have independent judgment without fear of retaliation."); Utah Code §77-32-804(1)(a)(iv) ("[T]he service provider is free to defend the client based on the service provider's own independent judgment.")

<sup>6</sup> Utah Code §77-32-804(5) ("The delivery of indigent defense services shall be independent of the judiciary(...)")

<sup>7</sup> Utah Code §77-32-804(1)(a)(iii) ("Service providers shall provide contracts that separately account for indigent criminal defense, parental defense and juvenile delinquency defense."); Utah Code §77-32-804(1)(a)(vi)(D) ("Service providers shall be (...)incentivized to represent clients fully through (...) separate contracts for appellate attorneys to ensure the right to appeal.")

<sup>8</sup> Utah Code §77-32-304 (1)(b) ("When representing an indigent, the assigned counsel shall (...) file any first appeal of right or other remedy before or after conviction that the assigned counsel considers to be in the interest of justice, except for other and subsequent discretionary appeals or discretionary writ proceedings.")

<sup>9</sup> Utah Code §77-32-804(1)(a)(vi)(D) ("Service providers shall be (...)incentivized to represent clients fully through (...) separate contracts for appellate attorneys to ensure the right to appeal.")

## PRINCIPLE 7/ SYSTEM PROVIDES REPRESENTATION THAT IS FREE FROM CONFLICTS OF INTEREST

Effective representation is representation that is free from conflicts of interest.<sup>10</sup>

Indigent defense systems shall ensure that defense counsel manage conflicts of interest issues in accordance with the Utah Rules of Professional Conduct.<sup>11</sup> Systems shall also provide employment and contracting arrangements that separately account for conflict caseloads.<sup>12</sup> Those arrangements shall be made in a manner that do not create for defense counsel, a financial disincentive to declare a conflict.<sup>13</sup>

## PRINCIPLE 8/ SYSTEM PROVIDES EFFECTIVE REPRESENTATION

Effective representation depends upon the efforts of qualified counsel who receive ongoing training, have appropriate caseloads, have access to defense resources, and receive proper compensation.

- **8A/ Qualifications and Training**

Indigent defense systems shall ensure that defense counsel's ability, training, & experience match the complexity of the case.

Systems shall require attendance at and provide resources for continuing legal education in the area(s) of indigent defense practice undertaken by defense counsel.<sup>14</sup>

- **8B/ Appropriate Caseloads**

Indigent defense systems shall limit total workload (which includes any private caseload and any indigent caseload undertaken with other jurisdictions) to allow for effective representation of each client.

Total caseload shall be set at a level that allows defense counsel to undertake the scope of work required to test the state's evidence in a meaningful manner in each case.<sup>15</sup>

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<sup>10</sup> Utah Code §77-32-804(1)(a)(ii) ("Service providers shall provide conflict-free representation, including the need for separate contracts for conflict counsel."); Utah Rules of Professional Conduct, Rule 1.7 (Conflict of Interest: Current Clients)

<sup>11</sup> Utah Code §77-32-804(1)(a)(vii) ("Contracts [shall] address counsel's obligations under the Utah Rules of Professional Conduct, including expectations on (...) managing conflicts of interest." )

<sup>12</sup> Utah Code §77-32-804(1)(a)(ii) ("Service providers shall provide conflict free-representation, including the need for a separate contract for conflict counsel.")

<sup>13</sup> Utah Code §77-32-804(1)(a)(vi)(B) ("Service providers shall be (...) incentivized to represent clients fully through (...) incentives that are structured to effectively represent indigent persons.")

<sup>14</sup> Utah Code §77-32-804(1)(a)(vi)(C) (requiring "contract provisions that address legal training and education in the areas of the law relevant to the types of cases the service provider is contracted to appear on.")

<sup>15</sup> Utah Code §77-32-804(1)(a)(v)(B) ("Counsel shall be free to provide meaningful representation, including (...) workloads that allow for time to meet with clients, investigate cases and file appropriate motions.")

- **8C/ Access to Defense Resources**

Indigent defense systems shall equip defense counsel with the tools necessary to provide effective representation, including adequate access to ancillary defense resources; i.e., defense function resources other than defense counsel, which, depending on the case, can include investigators, experts, social workers, interpreters, and/or forensic services.<sup>16</sup>

Systems shall provide access to ancillary resources in a manner that does not create for defense counsel, a financial disincentive to utilize ancillary resources on behalf of the client—for example, flat rate contracts where defense counsel pays for ancillary services out of their own flat rate compensation.<sup>17</sup>

- **8D/ Proper Compensation**

Indigent defense systems shall adopt appropriate rates and methodologies of compensation that take into account the time, amount of work, and complexity of work required to provide effective representation.

Rates of compensation shall be in an amount sufficient to attract qualified applicants and sufficient to incentivize effective representation.<sup>18</sup>

Indigent defense systems shall avoid employment or contracting arrangements that create disincentives for effective representation—for example, flat fee contracts that provide no limits on the number of cases defense counsel will be assigned during the contract period.<sup>19</sup>

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<sup>16</sup> Utah Code §77-32-804(1)(a)(v)(A) (“Counsel shall be free to provide meaningful representation, including access to defense resources.”)

<sup>17</sup> Utah Code §77-32-804(1)(a)(vi)(B) (“Service providers shall be (...) incentivized to represent clients fully through (...) incentives that are structured to effectively represent indigent persons.”)

<sup>18</sup> Utah Code §77-32-804(1)(a)(vi)(E) (“Service providers shall be fairly compensated and incentivized to represent clients fully through (...) compensation sufficient to attract applicants qualified with adequate experience in the relevant areas of the law to provide effective representation in the defense of clients.”)

<sup>19</sup> Utah Code §77-32-804(1)(a)(vi)(B) (“Service providers shall be (...) incentivized to represent clients fully through (...) incentives that are structured to effectively represent indigent persons.”)



CORE PRINCIPLES FOR  
APPOINTED ATTORNEYS  
REPRESENTING YOUTH IN  
DELINQUENCY PROCEEDINGS

## DRAFTING AND REVIEW COMMITTEE

Pam Vickrey	Elizabeth Hunt	Andrea Martinez-Griffin
Margaret Lindsay	J. Robert Latham	Jojo Liu
Mark Moffat	Erin Hill	

## USER STATEMENT

The Utah Indigent Defense Commission promulgated the Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings in February 2018 to provide advisory guidance to indigent defense systems, delinquency defense attorneys, and other juvenile court stakeholders. Nothing in these core principles is considered the rendering of legal advice with respect to specific cases.

## UTAH INDIGENT DEFENSE COMMISSION

The Utah Indigent Defense Commission was created by legislation in 2016 to help the state ensure its indigent defense services are consistent with the United States and Utah Constitutions.

The membership of the Commission includes key leaders in state and local government, criminal defense, indigent defense services, and the courts.

The Commission works with the state, local governments, indigent defense providers, and other stakeholders to: provide guidance on standards for constitutional representation, gather data and information about local indigent defense services, award grants to improve local indigent defense services, and encourage and aid in the regionalization of indigent defense services throughout the state.

## Principle 1/ ROLE OF THE ATTORNEY

The central role of the delinquency defense attorney is the protection of the client's procedural and substantive rights through ethical, competent, and effective representation.

Ethical, competent, and effective representation is independent, conflict-free, individualized, developmentally appropriate, and based on the client's expressed wishes.<sup>1</sup>

## Principle 2/ DUTIES TO CLIENT

Ethical representation by the delinquency defense attorney encompasses the same type of duties owed to adult clients, in addition to duties that arise from the youth status of the client.

The attorney's duties include:

- undivided loyalty, which includes identifying and addressing any conflicts of interest<sup>2</sup>;
- confidentiality<sup>3</sup>;
- regular, developmentally appropriate communication sufficient to enable:
  - the attorney's understanding of the client's expressed wishes;
  - the client's understanding of the allegations, court proceedings, case developments, available evidence, likelihood that the allegations would be found true at trial, and likely dispositional options; and
  - the client's knowing and voluntary decisions regarding plea offers;
- an obligation to monitor the competency of the client throughout the pendency of the delinquency case and to litigate issues of competency, where appropriate; and
- a responsibility to gather, in each individual case, the relevant client background information, which commonly includes education history, mental health history, medical history, immigration status, and family history.

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<sup>1</sup> The delinquency defense attorney acts as the client's voice in the proceedings, advocating for the client's expressed interests, not the client's "best interests" as determined by counsel or any other interested party. *See*, Rule 1.14(a) "Client with Diminished Capacity" and Rule 1.2(a) "Scope of Representation and Allocation of Authority between Client and Lawyer" of the Utah Rules of Professional Conduct.

<sup>2</sup> At minimum, the attorney should maintain a case and file management system sufficient to enable conflict checks. The attorney should operate under the presumption that representing co-minors is likely to harm the quality of representation of one or both clients.

<sup>3</sup> Effective representation generally requires robust communication with the client's parent(s). However, the attorney should be mindful there exists no exception to the duty of confidentiality for parent communications. Relatedly, attorney-client communications in the presence of parents are likely not protected by the attorney-client privilege.

### Principle 3/ AREAS OF KNOWLEDGE AND EXPERTISE

The specialized nature of delinquency defense practice requires knowledge in several areas of law, policy, research, and practice, including:

- constitutional law as it relates to criminal procedure and issues of due process;
- the Utah Rules of Juvenile Procedure, the Utah Rules of Civil Procedure, the Juvenile Court Act, the Utah Criminal Code, the Utah Rules of Evidence, and the Utah Rules of Appellate Procedure;
- relevant federal and state caselaw;
- court rules and local court protocols;
- collateral consequences of allegations adjudicated to be true in juvenile court;
- collateral consequences of arrest and referral, whether or not adjudicated;
- relevant agency procedures, including those of school systems, Department of Human Services, Juvenile Justice Services, Department of Children and Family Services, Probation, Department of Mental Health, and local mental health authorities;
- law, rules, and procedures related to competency in juvenile court;
- adolescent development concepts as they relate to client relations, competency issues, suppression issues, culpability, and dispositional advocacy; and
- related areas of law, including immigration law and education law, sufficient to allow the attorney to identify issues and make appropriate referrals.

### Principle 4/ QUALIFICATIONS, TRAINING, AND ONGOING EDUCATION

Delinquency defense is a complex specialty, requiring specialized training and ongoing legal education.

The delinquency defense attorney should limit their representation to cases for which they have the requisite expertise and qualifications.

On an ongoing basis, the attorney should:

- seek and participate in training in areas of law and practice that specifically impact delinquency defense practice (see “Principle 4/ Areas of Knowledge and Expertise,” above);
- seek consultation and mentorship from experienced practitioners in areas of law and practice less familiar to the attorney;
- become familiar with available resources and experts with whom they can consult on related areas of expertise, including but not limited to immigration law, educational advocacy, mental health services, and treatment options; and
- seek affiliation and mutually supportive relationships with other delinquency practitioners.

## Principle 5/ SCOPE OF REPRESENTATION

Effective representation commences in a timely manner, extends for the proper period of representation, and proceeds with reasonable continuity. The attorney should:

- represent the client from the initial court proceeding through all subsequent delinquency proceedings until court jurisdiction is terminated, including at detention hearings, post-dispositional hearings, contempt proceedings, in-court reviews, and restitution hearings<sup>4</sup> ;
- be present at all court hearings and avoid continuances unless there is a benefit for the client; and
- maintain continuity of representation, avoiding substitutions of counsel whenever possible.

## Principle 6/ ADDRESSING THE ALLEGATIONS

Effective delinquency defense necessarily means meaningfully addressing the allegations faced by the client. The attorney should:

- develop a theory of the case that guides the case strategy;
- pursue available evidence through discovery and investigation;
- examine and review all available evidence;
- file appropriate motions;
- advise the client on the strengths and weaknesses of the state's case and on all implications of a plea offer, including direct and collateral consequences of accepting the plea offer;
- adjudicate the allegations against the client unless the plea offer is consistent with the client's expressed wishes and represents a benefit to the client;
- use expert and other defense resources, as appropriate; and
- utilize an multidisciplinary defense team model, where those services are available.

## Principle 7/ DISPOSITIONAL ADVOCACY

Dispositional advocacy is a core aspect of delinquency defense. Effective dispositional advocacy requires that the attorney:

- advocate for treatment and placements that serve the needs of the individual client, leverage pre-existing strengths and supports, and are consistent with the client's expressed interests;
- actively research all available dispositional options, not limited to only those proposed by the probation department;
- present meaningful dispositional alternatives for the court's consideration, when available; and
- ensure court-ordered services are delivered in the least restrictive setting possible.

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<sup>4</sup> Utah Code §77-32-804(1)(a)(iv)(B) ("Indigent parties in juvenile delinquency and child welfare proceedings shall be provided counsel at all stages.")

## Principle 8/ CLIENTS FACING RISK OF ADULT PROSECUTION

Cases where the client faces the possibility of adult prosecution—i.e., Serious Youth Offender (SYO) and “certification” cases—are necessarily high stakes, complex, labor-intensive, and require additional practice considerations.

The attorney handling an SYO case or “certification” case should:

- possess prior experience with such cases or seek the involvement of another attorney who has such experience;
- utilize investigators to address the factual issues in the case<sup>5</sup>;
- have authoritative knowledge of the SYO and “certification” statutes, including the provisions on retention criteria, burdens of proof, and standards of proof;
- thoroughly pursue documentation for each retention factor;
- utilize an expert or experts to develop a social and psychological history and provide assessments regarding any mental or behavioral impairments, including cognitive deficits, mental illness, developmental disabilities, and neurological deficits;
- consult with a criminal defense attorney regarding district court practices that may inform case planning;
- if the client is bound over to district court, advocate for the client to remain housed in juvenile detention during the pendency of the district court case and cooperate with the attorney handling the district court case; and
- attend any available training or CLE on topics relevant to SYO and “certification” cases.

## Principle 9/ WORKLOAD

The delinquency defense attorney should not carry a total workload that interferes with the ability to render effective assistance of counsel to the client in every case.

## Principle 10/ APPELLATE REPRESENTATION

The delinquency defense attorney must preserve and protect a client’s right to appeal. The attorney should:

- be familiar with the rules of appellate procedure;
- preserve issues for appeal, including through motions practice and clear objections;
- counsel the client regarding appellate rights and guide the client through the decision making process regarding possible appeal;
- file the Notice of Appeal, if the client chooses to appeal; and
- cooperate with appellate counsel, if applicable.

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<sup>5</sup> See, Houskeeper v. State, 197 P.3d 636 (Utah 2008) (finding that the delinquency defense attorney was ineffective by failing to investigate and by not putting on any defense witnesses.)

## Principle 11/ SYSTEM ISSUES AND IMPROVEMENT

System issues in the juvenile justice system can have a significant impact on individual case outcomes.

The delinquency defense attorney, moreover, plays an important role in ensuring that the juvenile justice system promotes accuracy, fairness, non-discrimination, and rehabilitation.

The attorney should seek to:

- participate in policy development and review;
- monitor proposals to change court rules;
- advocate for adequate resources to provide effective assistance;
- advocate for the elimination of disproportionate minority contact in the juvenile justice system;
- report any harmful conditions of confinement; and
- maintain adequate records to facilitate engagement in systems advocacy.





CORE PRINCIPLES FOR  
APPOINTED ATTORNEYS  
REPRESENTING INDIGENT PARENTS  
OR LEGAL GUARDIANS  
IN CHILD WELFARE PROCEEDINGS

## DRAFTING AND REVIEW COMMITTEE

Margaret Lindsay

Kirstin Norman

Lisa Lokken

Jojo Liu

Jason Richards

## USER STATEMENT

The Utah Indigent Defense Commission adopted these “Core Principles for Appointed Attorneys Representing Indigent Parents or Legal Guardians in Child Welfare Proceedings” in February 2018 to provide advisory guidance to indigent defense systems, parent attorneys, and other juvenile court stakeholders. Nothing in these core principles is considered the rendering of legal advice with respect to specific cases.

## UTAH INDIGENT DEFENSE COMMISSION

The Utah Indigent Defense Commission was created by legislation in 2016 to help the state ensure its indigent defense services are consistent with the United States and Utah Constitutions.

The membership of the Commission includes key leaders in state and local government, criminal defense, indigent defense services, and the courts.

The Commission works with the state, local governments, indigent defense providers, and other stakeholders to: provide guidance on standards for constitutional representation, gather data and information about local indigent defense services, award grants to improve local indigent defense services, and encourage and aid in the regionalization of indigent defense services throughout the state.

## PRINCIPLE 1/ ROLE OF THE ATTORNEY

The attorney appointed to represent a parent or legal guardian in child welfare proceedings—hereinafter “the parent attorney” – works to protect a parent’s constitutional and legal rights in the care and custody of their child(ren). The role extends beyond mere attendance at scheduled court hearings and includes out-of-court support to the client, active collaboration with other stakeholders on the case, and developing a strength-based narrative of the client that guides every aspect of the case.

The parent attorney plays a critical role in the appropriate functioning of the child welfare system. Effective advocacy by the parent attorney improves system decision making, strengthens families, and results in better outcomes for subject children.<sup>1</sup>

## PRINCIPLE 2/ DUTIES TO CLIENT

The duties owed by the parent attorney to their client include:

- confidentiality;
- undivided loyalty, which includes identifying and addressing any conflicts of interest<sup>2</sup>;
- handling the matter with a sense of urgency while being sensitive to the individual needs of the client;
- regular and meaningful communication with the client, with the goal of engaging the client in the process, including mediation, and empowering the client to make informed decisions;
- frequent communication with DCFS, services providers, and other stakeholders;
- conveying to the client the critical importance of staying in contact with the parent attorney; and
- establishing, in each case, the best means of staying in contact with the client.

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<sup>1</sup> E.g., Courtney, Mark E., and Jennifer L. Hook. 2012. "Evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes for children in foster care." *Children and Youth Services Review* 34(7): 1337-43 (finding that enhancements in parental representation in Washington State improved permanency outcomes for children). An executive summary of the study findings is available at: <https://olis.leg.state.or.us/liz/201311/Downloads/CommitteeMeetingDocument/31635>

<sup>2</sup> The attorney should maintain a case and file management system sufficient to enable conflict checks. The parent attorney should also avoid, whenever possible, representing two or more individuals involved in the same dependency or termination proceeding absent unusual circumstances.

### PRINCIPLE 3/ TRAINING AND ONGOING EDUCATION

Parental defense is an area of distinct specialization, requiring specialized training and ongoing legal education.

On an ongoing basis, the parent attorney should:

- seek training in areas of law and practice relevant to parental defense practice (see Guideline #4, below);
- seek consultation and mentorship from experienced practitioners in areas of relevant law and practice less familiar to the parent attorney; and
- seek affiliation and mutually supportive relationships with other parent attorneys.

### PRINCIPLE 4/ AREAS OF KNOWLEDGE AND EXPERTISE

The specialized nature of parental defense practice requires adherence to and familiarity with relevant areas of law, policy, research, and practice, including:

- permanency timelines;
- federal statutes, regulations, policies, and rules, including the Indian Child Welfare Act, the Adoption and Safe Families Act, and the Family First Prevention Services Act;
- state statutes, regulations, policies, and rules, including: the Utah Rules of Juvenile Procedure, the Utah Rules of Civil Procedure, the Juvenile Court Act, the Utah Rules of Evidence, and the Utah Rules of Appellate Procedure;
- federal and state child welfare caselaw;
- court rules and local court protocols;
- child development principles and research, particularly the importance of attachment and bonding and the harms of parental separation;
- child welfare and family preservation services available in the community;
- the role and authority of DCFS and any administrative regulations, policies, or laws that govern DCFS practices; and
- working knowledge of the types of experts who can consult with attorneys and/or testify on parenting, remedial services, and other child welfare issues.

## PRINCIPLE 5/ SCOPE OF REPRESENTATION

Effective representation commences in a timely manner, extends for the entire life of the case, and proceeds with reasonable continuity. The parent attorney should:

- represent the client from the initial court proceeding or shelter hearing through all subsequent dependency and/or termination proceedings until court jurisdiction is terminated;
- be present at all court hearings and avoid continuances unless there is a benefit for the client; and
- advocate for parents at mediation, Family Team Meetings, and other agency meetings that take place outside of court, whether directly or through the participation of a defense team social worker, where available.

## PRINCIPLE 6/ CHALLENGING REMOVAL, ALLEGATIONS, AND TERMINATION

Effective representation requires addressing the allegations against the client. The parent attorney should:

- articulate a strength-based narrative about the client;
- develop a theory of the case and proactive case strategy;
- pursue fact development through discovery and investigation;
- pursue legal arguments through motion practice and briefing;
- present competent evidence through the use of witnesses, exhibits, and/or documentation;
- document and track all that is being done by DCFS and encouraging the client to do the same;
- evaluate “reasonable efforts” at every stage of the proceedings;
- litigate the issue of “reasonable efforts,” where appropriate; and
- use experts as defense consultants and/or witnesses, where appropriate.

## PRINCIPLE 7/ AFFIRMATIVE ADVOCACY FOR PLACEMENT, SERVICES, AND PARENT TIME

Effective representation of a parent in child welfare cases generally requires representation beyond the legal and factual claims against the parent. The parent attorney should actively advocate for placement, services, and meaningful parent time. Specifically, the parent attorney should:

- advocate for kinship placements, where appropriate, if the court orders removal from the home;
- advocate for meaningful and robust parent time, which may include utilizing third-party supervised visits to increase parenting opportunities;
- engage in proactive case planning, which may include proposing alternative case plans, service providers, and parent time schedules that are most supportive of family reunification;
- challenge the services offered by DCFS when those services are not appropriate or sufficient;
- obtain referrals and services from the very beginning of the case, when possible; and
- pursue, where appropriate, motion practice and litigation directed towards improving placement options, services, and parent time.

## PRINCIPLE 8/ WORKLOAD

The parent attorney should not carry a total workload that interferes with the ability to render effective assistance of counsel to each client.

## PRINCIPLE 9/ APPELLATE ISSUES

The parent attorney must preserve and protect a client's right to appeal. The attorney should:

- be familiar with the rules of appellate procedure, particularly those pertaining to filing deadlines;
- preserve issues for appeal;
- counsel the client on appellate rights and guide the client through the decision making process regarding possible appeal;
- conduct a reasonable search for a missing client to obtain requisite signatures;
- timely and thoroughly file the notice and Petition on Appeal if the client elects to appeal; and
- principally author any documents filed with the Court of Appeals, including but not limited to the Petition on Appeal.<sup>3</sup>

## PRINCIPLE 10/ SYSTEM ADVOCACY AND IMPROVEMENT

The parent attorney plays an important role in ensuring that the child welfare system functions fairly and avoids unnecessary state intervention in family relationships.

The parent attorney should, when possible, seek to:

- actively participate in policy development and review;
- monitor proposals to change court rules;
- participate in local or statewide committees relevant to juvenile court; and
- advocate for adequate defense resources to provide effective assistance.

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<sup>3</sup> While the use of support staff, including the use of paralegals on appeals, can be a beneficial means of managing an attorney's caseload, the primary responsibility of the appeal remains with the attorney.

## Contact the IDC:

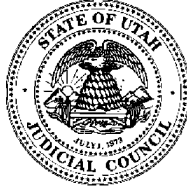
Joanna Landau, Director  
jlandau@utah.gov  
mobile: 801.209.5440

Jojo Liu, Assistant Director  
jliu@utah.gov  
mobile: 801. 903.3176



# 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 D. Sylvester*  
**Date:** June 4, 2018  
**Re:** Certification of Judge Mary T. Noonan as an Active Senior Judge

---

**Judge Mary T. Noonan** has applied to be appointed as an **Active Senior Judge**. I have attached Judge Noonan's application form, which shows compliance with the minimum qualifications for office and with judicial performance standards. Judge Noonan meets all of the performance standards, and certification appears to be appropriate. The Council's certification decision will be forwarded to the Supreme Court for its consideration in the appointment process.

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



## **Senior Judge Application Active Status**

### **Qualifications for Office**

I, Mary T. Noonan, hereby apply for the office of Active Senior Judge and declare as follows:

- 1) I was retained in the last election in which I stood for election.
- 2) I voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, have recovered from or have accommodated that disability.
- 3) I am physically and mentally able to perform the duties of judicial office.
- 4) I demonstrate appropriate ability and character.
- 5) I am admitted to the practice of law in Utah, but I do not practice law.
- 6) I am eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.
- 7) I am familiar with current statutes, rules and case law, the use of the electronic record, and judicial workspace.
- 8) I am a current resident of Utah and available to take cases.
- 9) I will satisfy the education requirements of an active judge.
- 10) I will accept assignments at least two days per calendar year, subject to being called.
- 11) I will conform to the Code of Judicial Conduct, the Code of Judicial Administration, and rules of the Supreme Court.
- 12) I obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been certified for retention regardless of whether the evaluation was conducted for self-improvement or certification;
- 13) I continue to meet the requirements for certification for judicial performance evaluation as those requirements are established for active senior judges.
- 14) I was not removed from office or involuntarily retired on grounds other than disability.

- 15) I was not suspended during my final term of office or final six years in office, whichever is greater.
- 16) I did not resign as a result of negotiations with the Judicial Conduct Commission or while a complaint against me was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.
- 17) I will submit relevant information as requested by the Judicial Council.
- 18) My date of birth is \_\_\_\_\_, and my retirement date is 7/16/2018.
- 19) I have not been subject to any order of discipline for conduct as a senior judge.
- 20) There ☐ is ~~is~~ is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- 21) During my current term there have been 0 orders of discipline against me entered by the Supreme Court, and I have attached a copy of each, if applicable.
- 22) The address at which I can be contacted after retirement is:

My email address and phone number are:

#### Judicial Performance Evaluation Information

I further declare as follows:

- 23) I have held no more than three cases per calendar year under advisement more than 60 days after submission.
- 24) I have held no cases under advisement more than 180 days after submission.
- 25) I am in substantial compliance with the Code of Judicial Conduct.
- 26) I am physically and mentally fit for office.
- 27) I have obtained the following judicial education hours for the years indicated.

2015	2016	2017	2018
44	33.75	36.5	17.5

Juvenile Court Conference  
legislative update

If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.

Annual Judicial Conference - approx. 13-14 hours

- 28) I understand that I must contact the Administrative Office of the Courts and request transfer to inactive status prior to any planned leaves of absence that could interfere with my ability to fully comply with annual education requirements.

I waive my claim of confidentiality and request that a copy of any complaints submitted to the Judicial Conduct Commission be sent to the person shown below, if requested.

5-29-18

Date

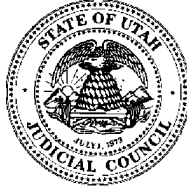
Mary T. Noonan

Mary T. Noonan

Please complete and return by May 31, 2018 to:

Nancy J. Sylvester  
P.O. Box 140241  
Salt Lake City, Utah 84114-0241  
Fax: 801-578-3843  
Email: [nancyjs@utcourts.gov](mailto:nancyjs@utcourts.gov)

by Nancy J. Sylvester  
at the direction of  
Mary T. Noonan



## 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 D. Sylvester*  
**Date:** May 14, 2018  
**Re:** Certification of Ivo Ray Peterson as an Inactive Senior Judge

---

Judge Ivo Ray Peterson has applied to be appointed as an Inactive Senior Judge. I have attached Judge Peterson's application form, which shows compliance with the minimum qualifications for office and with judicial performance standards. The Board of Justice Court Judges has reviewed the application and recommends that it be approved. Judge Peterson meets all of the performance standards, and certification appears to be appropriate. The Council's certification decision will be forwarded to the Supreme Court for its consideration in the appointment process.

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



## Senior Judge Application

### Inactive Status

**Ivo Ray**

I, **Ivo Ray Peterson**, apply for the office of senior judge, inactive status, and declare as follows:

- 1) I was certified by the Judicial Council for retention election or reappointment the last time the Council considered me for certification.
- 2) I voluntarily resigned from judicial office, was laid off pursuant to a reduction in force, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, recovered from or have accommodated that disability.
- 3) I demonstrate appropriate ability and character.
- 4) I was in office for at least five years. My separation date is 6/30/2017.
- 5) I comply with the restrictions on secondary employment provided by the Utah Code.
- 6) There ☐ is ☒ is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- 7) During my current term there have been 0 orders of discipline against me entered by the Supreme Court, and I have attached a copy of each.
- 8) The mailing address and phone number at which I can be contacted after retirement are:

[Redacted Address]  
[Redacted Address]  
My email address and phone  
number are: [Redacted Phone Number]

I waive my claim of confidentiality and request that a copy of any complaints submitted to the Judicial Conduct Commission be sent to the person shown below, if requested.

May 5, 2018  
Date

Ivo Ray Peterson  
Peterson

If you wish to apply for appointment, please complete and return no later than May 7, 2018 to:

Nancy J. Sylvester  
P.O. Box 140241  
Salt Lake City, Utah 84114-0241  
Fax: 801-578-3843  
Email: [nancyjs@utcourts.gov](mailto:nancyjs@utcourts.gov)

# Tab 6



3RD DISTRICT COURT - SALT LAKE  
Filing Summary Report

Commissioner: T PATRICK CASEY

Report Period: 01/01/2017 - 12/31/2017

Case Type	Count	Percent
-----		
CRIMINAL		
State Felony	0	.00%
Misdemeanor	0	.00%
Infraction	0	.00%
Not Applicable	0	.00%
Special Matters	0	.00%
Misdemeanor DUI	0	.00%
TOTAL CRIMINAL	0	.00%
-----		
DOMESTIC		
Common Law Marriage	1	.08%
Custody and Support	76	6.12%
Divorce/Annulment	673	54.23%
Grandparent Visitation	0	.00%
Paternity	54	4.35%
Protective Orders	414	33.36%
Separate Maintenance	2	.16%
Temporary Separation	8	.64%
UCCJEA Child Cust Jur	8	.64%
UIFSA	5	.40%
TOTAL DOMESTIC	1,241	99.84%
-----		
TRAFFIC		
Parking Citation	0	.00%
Parking Court Case	0	.00%
Traffic Citation	0	.00%
Traffic Court Case	0	.00%
TOTAL TRAFFIC	0	.00%
-----		
GENERAL CIVIL		
Administrative Ag	0	.00%
Arbitration Award	0	.00%
Attorney Discipline	0	.00%
Civil Rights	0	.00%
Civil Stalking	0	.00%
Contempt	0	.00%
Contract: Empl Discr	0	.00%
Contract: Fraud	0	.00%

3RD DISTRICT CT- SILVER SUMMIT  
Filing Summary Report

Commissioner: T PATRICK CASEY

Report Period: 01/01/2017 - 12/31/2017

Case Type	Count	Percent
-----		
CRIMINAL		
State Felony	0	.00%
Misdemeanor	0	.00%
Infraction	0	.00%
Not Applicable	0	.00%
Special Matters	0	.00%
Misdemeanor DUI	0	.00%
TOTAL CRIMINAL	0	.00%
-----		
DOMESTIC		
Common Law Marriage	1	.47%
Custody and Support	6	2.83%
Divorce/Annulment	149	70.28%
Grandparent Visitation	1	.47%
Paternity	7	3.30%
Protective Orders	44	20.75%
Separate Maintenance	0	.00%
Temporary Separation	0	.00%
UCCJEA Child Cust Jur	4	1.89%
UIFSA	0	.00%
TOTAL DOMESTIC	212	100.00%
-----		
TRAFFIC		
Parking Citation	0	.00%
Parking Court Case	0	.00%
Traffic Citation	0	.00%
Traffic Court Case	0	.00%
TOTAL TRAFFIC	0	.00%
-----		
GENERAL CIVIL		
Administrative Ag	0	.00%
Arbitration Award	0	.00%
Attorney Discipline	0	.00%
Civil Rights	0	.00%
Civil Stalking	0	.00%
Contempt	0	.00%
Contract: Empl Discr	0	.00%
Contract: Fraud	0	.00%

WAKEHAM, JON S	*WAKEHAM, MARGAR	154905900	DA	09/10/2015	1001	2	Ended	Cancel	05/24/2018	mkouris
DURAN, MICHELLE	*DURAN RUBEN	154905491	DA	08/24/2015	1018	2	Ended	Cancel	05/04/2018	kakelly
HUMPHREY, VAUGHN	HALL, MANDY LYNN	154904306	DA	07/02/2015	1071	2			01/12/2018	pcorum
PURSER, CHELLSEA	*MEZA, M	154903730	CS	06/08/2015	1095	2	Ended	Cancel	07/13/2017	kholmber
HUNTER, RANDALL	*WILLIAMS, RANDILY	154901816	CS	03/18/2015	1177	2	60R	Past	03/26/2018	F00495Y2: sjchon
MCRAE, SAMUEL AR	*GASCA, OLGA ANGE	154901508	CS	03/05/2015	1190	2		Past	01/23/2018	lmjones
SNYDER, CHRISTOPH	*SNYDER, AMBER JE	154900119	DA	01/08/2015	1246	2		Past	03/31/2018	kakelly
SAXTON, ANNETTE	*SAXTON, JAMES	144906958	DA	12/05/2014	1280	2	Ended	Cancel	11/24/2017	kpettit
TUELLER, CHAD LEE	*TUELLER MATHISON	144906963	DA	12/05/2014	1280	2	Ended	Past	05/23/2018	pcorum
WILLIAMS, B	*WILLIAMS, MARK SH	144905093	DA	09/15/2014	1361	2	Ended	Past	11/24/2017	kpettit
GOMEZ, E	*GOMEZ, VINICIO	144904637	DA	08/25/2014	1382	2		Past	01/30/2018	F00291Y2: kholmber
WU, ISAAC	*MARTIN, AIMEE	144904449	PA	08/18/2014	1389	2	60R	Past	05/24/2018	F00638Y2: sjchon
SILVA, MATTHEW M	*HERNANDEZ, S	144903685	PA	07/11/2014	1427	2	FID	Future	06/04/2018	MATTHEV blawrenc
DEANDA, MELISSA A	*DEANDA, A	134906285	DA	12/02/2013	1648	2	Ended	Past	05/02/2018	pcorum
TAN, BRYANT	*TAN, GRACE	134905656	DA	10/25/2013	1686		Ended	Past	05/29/2018	rfaust
CHAIRES, HIRAM	*CHAMPION, S	134904184	DA	08/12/2013	1760	2	Ended	Cancel	05/31/2018	F00535Y2: ehruby
WADSWORTH, H CAI	*WADSWORTH, GUY	104904966	DA	09/29/2010	2808		Ended	Past	05/21/2018	sjchon

Aged Days = Pending Days - Active Warrant Days - Stay Days

\* = Multiple Parties

Average Days Pending: 266

Cases on Tracking: 222

Cases Calendared: 61

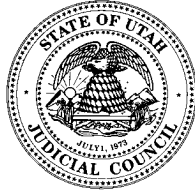
Cases with Warrants: 0

Total Cases: 679



# Tab 7





## Administrative Office of the Courts

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

June 4, 2018

**Richard H. Schwermer**  
State Court Administrator  
**Ray Wahl**  
Deputy Court Administrator  
**Jacey Skinner**  
Deputy Court Administrator

### MEMORANDUM

**TO: Management Committee / Judicial Council**

**FROM: Tom Langhorne**

**RE: Filling Standing Education Committee Vacancy**

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Name of Committee: Standing Education Committee

Reason for Vacancy: The Chief Probation Officer on the committee is no longer a Chief PO.

Eligibility requirements: Rule 1-205 requires the Standing Education Committee be populated by a Chief Probation Officer

Current committee member list: Judge Diana Hagen, Chair, Court of Appeals, Judge George Harmond, 7<sup>th</sup> District Court, Joyce Pace, 5<sup>th</sup> District TCE, Lynn Wiseman, 2<sup>nd</sup> District Clerk of Court, , Mark Paradise, 3<sup>rd</sup> District JA, Mary Barrientez, IT Department, Ray Wahl, AOC Deputy State Court Administrator , Rob Parkes, HR Department Director, Judge David Miller, 2<sup>nd</sup> District Justice Court, Judge Janet Frost, 2<sup>nd</sup> Juvenile Court, Professor Brian Stecklein, Weber State University, Tom Langhorne (committee staff)

Description of recruitment process: Tom Langhorne emailed all Utah Chief Probation Officers seeking their interest in replacing Sherry Parke's vacancy.

Only two interested applicants supplied the required application materials: Shelly Waite, 4<sup>th</sup> Juvenile Court Chief Probation Officer and Tiffany Pew, 3<sup>rd</sup> District Court Chief Probation Officer.

Please see their attached expressions of interest and biographical information:

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**INTEROFFICE MEMORANDUM**

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**TO:** TOM LANGHORNE, MANAGEMENT COMMITTEE

**FROM:** SHELLY WAITE

**SUBJECT:** CHIEF VACANCY ON STANDING EDUCATION COMMITTEE

**DATE:** 04/17/2018

**CC:**

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To whom it may concern,

Please find the attached information in considering my interest in the opportunity to fulfill the Chief PO vacancy on the Standing Education Committee.

1. Cover letter
2. List of current and past committee assignments
3. Resume

Shelly K. Waite  
Chief Probation Officer  
Fourth District Juvenile Court

April 17, 2018

Mr. Langhorne:

I am submitting this letter of intent for the opportunity to fill the assignment of the chief Probation Officer vacancy on the Standing Education Committee. I am very interested in this position, and believe that my education and employment background lend themselves very well to successfully fulfilling this role.

In my career with the Juvenile Court I have served on many state level committees. I have been instrumental in development of the knowledge and skills of probation staff for over 15 years as a Case Planning state wide trainer. Recently I requested an opportunity and was selected to be certified to be a CPC statewide evaluator. I have a master's degree in education/counseling and a bachelor's degree in social work. I have worked for the Fourth District Juvenile Court for over 24 years and, during that time have acquired 14 years of leadership and management experience. My experience here has been invaluable in providing me with knowledge of court process and procedures, case management, accounting, budgets and human resources along with personal and professional development. I have diligently worked in improving my skills in coaching and mentoring, along with performance and personnel issues in addition to abilities in developing good working relationships with the bench, community partners and allied agencies.

Enclosed is a copy of my resume, which more fully details my qualifications. Thank you for your consideration.

Sincerely,

Shelly K. Waite

## **SHELLY KAY WAITE**

### Current Committee Assignments

- \* Restorative Justice Statewide Committee (2004-Present)
- \* CARE HB 239 committee
- \* CPC evaluator
- \* PO certification committee/PO career track
- \* Senior PO proposal review committee

### Past Committee Assignments

- \* Statewide Case Planning Trainers
- \* DPO career track committee
- \* Statewide Quality Assurance Committee
- \* Education Committee (Court conferences)
- \* Fourth District statewide victims committee

567 E. Maple Lane Elk Ridge, UT 84651 home (801)423-1856 work (801)354-7249 cell (801)369-6122 Email shellyw@utcourts.gov

### **OBJECTIVE**

My goal is to utilize the experience I have acquired through my work and education to benefit both the community and the people I serve. My long term aspiration is to continue to learn and grow within my position, and seek other opportunities thus, expanding my knowledge and using the experience I obtain to augment the position of Probation Chief in the Fourth District Juvenile Court.

### **EXPERIENCE**

#### **FOURTH DISTRICT JUVENILE COURT**

*Chief Probation Officer, July 2017- present*

**Responsibilities include:** Managing the probation functions, overseeing evaluations, development and implementation of services and programs. Oversees administrative functions of the unit, ensures compliance with policies and procedures and provides directive for the activities of the probation staff. Actively participates in the selection and performance management process including evaluating performance, identifying goals, mentoring, training, and coaching staff. Facilitates the development of probation staffs knowledge skills and abilities in the performance of their job duties. Coordinates and fosters positive and productive relationships with allied agencies. Participates in regular management and judicial meetings and facilitates staff meetings.

#### **FOURTH DISTRICT JUVENILE COURT**

*Program Coordinator III, January 2004-June 2017*

**Responsibilities include the supervision and development of :** The community service work program, the Family and Juvenile Drug Court programs with the Districts four judges, The Victim Coordinator and all victim advocacy related services to include victim offender

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

mediations for the district. The duties include: Monitoring program quality assurance, personnel, contracts, budgets and invoices, along with community relations, training, and overall program development.

Other duties outside program supervision and development include:

District education liaison and trainer. I have been responsible for coordinating training at the district level and at the state level. These trainings include Probation Case Planning, PO Safety, Probation BriefCase training, Probation Targeted behavior response guidelines (Incentives/Sanction Matrices) Probation Quality Assurance Reviews, Fleet Van training, DPO Case Planning, CARE and Efiling.

I am responsible for District vehicles and maintenance along with oversight of facilities.

Additional state level duty includes being trained as a Correctional Program Checklist Assessor.

I work with a team to assess all state contract providers to evaluate level of adherence to evidenced based practices.

Statewide committee assignments include: 1- Restorative Justice Committee. I am actively involved with the development of policy and procedures for the community service programs throughout the state, along with training for DPO's, career track and conferences. (2004-present) 2- 4<sup>th</sup> District Victims Committee, help to resolve victim complaints. VOCA grant writer. For several years I wrote the proposal for the CVR grant, supporting the victim coordinators program in four districts statewide.

(2005-2009) Helped in getting permanently funded victim coordinator positions in several districts. 3- DCFS QIC Committee. Help to review DCFS policy and procedures to improve services. (QSR reviewer 2014-present) 4- CPC evaluator for the state.

Trained and in the process of becoming certified to help evaluate state contracted programs for level of adherence to evidence based practices. (2016-present) 5-Behavior Response Matrices Committee, we are currently developing the Tool Kit that will help support the Matrices.

Some of my past state committees include: Development of the Case Planning Tool Kit project committee, Quality Assurance Committee- This committee helped to oversee the new Case Planning Model when it was first being implemented. PO Certification process and Career Track project committee. Risk Assessment Committee- I worked with a group in helping to bring a new Risk Assessment to the state of Utah. CARE Quality Assurance committee- helped to review CARE process and procedures and do cleanup of the records when needed.

#### FOURTH DISTRICT JUVENILE COURT

*Probation/Intake Supervisor May 1998 to January 2004*

Responsibilities include supervision of probation/intake officers within a unit. Coordinate the activities of the unit with the operations of other units or functional divisions within the court. Implement court policies at the line officer level. Supervise operations of the unit and performance of the officers and other personnel assigned to the unit; assign and manage the workload; provide individual consultation to officers; implement necessary training and PO development at the District and State Levels.

Prepare individual performance plans for staff; identifies goals and objectives to be achieved.

Interview and recommend hiring of new staff; recommends promotions and discipline.

Evaluate and recommend changes in policies, procedures and operations. Coordinate case staffing among Officers and representatives from allied agencies.

Maintain statistical records for the unit. Directly responsible for the building, motor pool and inventory of all state equipment; along with insuring adequate security and safety procedures.

Maintain and monitor the budget assigned to the unit, for personnel, property, programming, equipment etc. Coordinated with agencies in the community with programming, implementing new programs, research, RFP=s, grants and contracts. Responsible for implementing the new State Supervision program and intensive probation, along with the Juvenile Delinquency Drug Court program. Recognized with incentive awards for achievement above and beyond assigned duties.

#### FOURTH DISTRICT JUVENILE COURT

*Probation Officer I,II, &III, August 1992 to May 1998*

Responsibilities include screening referrals for legal sufficiency; managing court procedures and processes for each individual client, ie., filing petitions, diversion, non judicial closure, et.; conducting interviews and analyzing information obtained to provide sentencing recommendation; providing supervision of court-ordered probation clients and developing treatment plans; tracking probation orders; training staff and facilitating learning process; assisting supervisors in personnel coverage and excess duties and responsibilities. Providing training classes for junior level officers and development of programs and services that benefit clients and associates.

#### EDUCATION

##### UNIVERSITY OF PHOENIX

*Masters of Arts and Education/Counseling, 1996*

Grade Point Average: 3.85

##### BRIGHAM YOUNG UNIVERSITY

*Bachelors of Science, School of Social Work, 1992*

Honors, related activities, accomplishments. Grade Point Average: 3.6

#### SKILLS/CERTIFICATIONS

Correctional Program Checklist certification and Evaluator for the state (2016-Present)

Case Planning/ Specialist and Trainer (2000-2016)

Functional Family Certified - UNLV Externship (2000)

Grant Proposal Writing Certified- TGCI Grantsmanship Center (2004)

Girls Moving On Certification (2009)

NCTI Certification (2010)

Why Try Certification (2016)

7 Challenges Certification (2016)

Google, Excel, Power point,

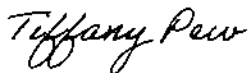
Word Process

**Tiffany Pew Statement of Interest for Standing Education Committee**

Dear Standing Education Committee,

I would like take this opportunity to formally submit my interest in becoming a member of the Standing Education Committee. I have been a probation officer with the juvenile court since 2003 and am a current instructor for the Sexual Offender Case Management class as well as a statewide Probation Officer Safety Trainer. As an instructor as well as a manager, I value the importance of ensuring that workers receive the training and information they need to provide excellent and professional service to our clientele. The educational needs of court workers are continually evolving as they are impacted by new legislation, cultural and societal trends and new research findings. I look forward to having the opportunity to support the education department in identifying and adapting to these changing needs. Thank you for your consideration.

Best Regards,

A handwritten signature in black ink that reads "Tiffany Pew". The signature is written in a cursive, flowing style.

Tiffany Pew  
(801)233-9665

## **Tiffany D. Pew**

1975 E Rio Way, Sandy, UT 84093 • Cell: (801)433-8788 Work: (801)233-9665 • E-mail  
tiffanyp@utcourts.gov

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### **CORE COMPETENCIES**

- Readily adaptable to new processes and changing work expectations.
- Adept at fostering cooperation and motivating team members to set and meet goals.
- Proficient at utilizing a coaching approach to address skill deficits of staff
- Strong interpersonal and communication skills

### **PROFESSIONAL EXPERIENCE**

#### ***Chief Probation Officer***

- April 2018-Present

#### ***Probation Supervisor***

- December 2015-April 2018
- Drug Court Probation Supervisor 2016-2017

#### ***Probation Officer***

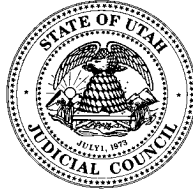
- September 2003- December 2015

### **ORGANIZATIONAL AND LEADERSHIP DEVELOPMENT**

- Statewide Probation Officer Safety Committee
- Statewide Probation Officer Safety Trainer
- Statewide Sexual Offender Case Management Trainer (2010-Present)
- 3rd District Multi-Agency Staffing Coordinator and Probation Representative
- Statewide Forms Committee
- NOJOS Conference Committee Member (Previous)
- Children's Justice Center Multidisciplinary Team Member (Previous)
- JSORRAT-II Implementation Committee (Previous)
- West Jordan Docket Team (Previous)
- Policy Committee (Previous)

### **EDUCATION**

- Bachelor of Science in Psychology, University of Utah
- Utah Courts Leadership Skills Academy 2014
- Case Planning Training 2018
- Evidence Based Practices Training
- Current on all educational requirements



# Administrative Office of the Courts

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

June 4, 2018

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

## MEMORANDUM

**TO:** Utah Supreme Court

**FROM:** Tom Langhorne

**RE:** Replacing Judge Janet Frost's Vacancy on the Standing Education Committee

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Name of Committee: Standing Education Committee

Reason for Vacancy: Judge Janet Frost's Retirement

Eligibility requirements: Rule 1-205 requires the Standing Education Committee be populated by a juvenile court judge

Current committee member list: Judge Diana Hagen, Chair, Court of Appeals, Judge George Harmond, 7<sup>th</sup> District Court, Joyce Pace, 5<sup>th</sup> District TCE, Lynn Wiseman, 2<sup>nd</sup> District Clerk of Court, Mark Paradise, 3<sup>rd</sup> District JA, Mary Barrientez, IT Department, Ray Wahl, AOC Deputy State Court Administrator, Rob Parkes, HR Department Director, Judge David Miller, 2<sup>nd</sup> District Justice Court, Judge Janet Frost, 2<sup>nd</sup> Juvenile Court, Professor Brian Stecklein, Weber State University, Tom Langhorne (committee staff)

Description of recruitment process: Tom Langhorne emailed all Utah Juvenile Court judges seeking their interest in replacing Just Frost's vacancy. Several expressed interest but only two supplied the required application materials.

List of names for consideration :

Judge Julie Lund, 3<sup>rd</sup> District Juvenile Court  
Judge Kim Hornak, 3<sup>rd</sup> District Juvenile Court

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

See attached letters expressing interest and biographical information for Judges Hornak and Lund

## **JUDGE JULIE LUND**

I am interested in serving on the education standing committee. My interest stems from service on various planning committees for educational conferences and the value that is gained from the content of those conferences. I am attaching a resume which also contains my current and past committee assignments. I recently ended my involvement on the Judicial Outreach committee and have an interest in finding another way that I can serve the judicial system.

## **EXPERIENCE**

### **JUVENILE COURT JUDGE THIRD DISTRICT COURT- DEC. 2010 - PRE S ENT**

- Presiding Judge - July 2017– present
- Utah Sentencing Commission - November 2014- present
- Drug Court Policy Committee- June 2013- present
- Judicial Outreach Committee- June 2012-June 2018
- Judicial Ethics Committee - 2011- 2013

### **ASSISTANT ATTORNEY GENERAL, UTAH ATTORNEY GENERAL'S OFFICE - July 1995- Dec. 2010**

- Division Chief- Child Protection Division– August 2007– December 2010

## **EDUCATION**

- UNIVERSITY OF UTAH COLLEGE OF LAW - Juris Doct or 1986
- UNIVERSITY OF COLORADO – BOULDER- BA Political Science 1981

## **COMMUNITY INVOLVMENT**

BOARD OF TRUSTEES SJ QUINNEY COLLEGE OF LAW 2005 – PRESENT  
COURT IMPROVEMENT PROGRAM 2008 – PRESENT  
CHILDREN 'S JUSTICE CENTER ADVISORY BOARD 2010 – 2016  
GIRLS ON THE RUN UTAH – BOARD OF DIRECTORS 2011 – 2014  
TOWN CLUB 2011 - PRESENT

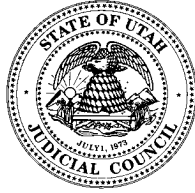
## **JUDGE KIMBERLY K. HORNAK**

Judge Kimberly K. Hornak was appointed to the Third District Juvenile Court in October 1994 by Gov. Michael O. Leavitt. She serves Salt Lake, Summit, and Tooele counties. Judge Hornak received a law degree from Gonzaga University College of Law in 1983. From 1984 to 1985, Judge Hornak was a staff attorney with Utah Legal Services in Ogden. From 1985 to 1986, she was a staff attorney with the Legal Aid Society. Judge Hornak was assistant attorney general from 1986 to 1988, and Deputy Salt Lake County Attorney from 1988 until her appointment to the bench. She has taught in the Trial Advocacy Program at the University of Utah College of Law and for the paralegal program at Westminster College. She has served on the Court Improvement Committee, the Law Related Education Board, the Standing Committee on Judicial Education, the Judicial Ethics Advisory Committee, the Standing Committee on Judicial Outreach, and the Board of Juvenile Court Judges. Judge Hornak served as the presiding judge in Third District Juvenile Court from 2004 through 2007. She has served on the Sentencing Commission and currently serves on the Utah Judicial Council. In addition, Judge Hornak presides over two drug courts.

I am interested in serving on the Standing Committee on Education. Utah has a strong, viable judicial education program which has served as a model for other states. I have served on the planning committee for many Utah judicial conferences including the Utah Annual Conference, the Juvenile Court Judges Conference, the New Judge Orientation and Training Conferences and the Utah Drug Court conference. Additionally, I have served on the planning committee for the National Association of Women Judges Conference and the National Council of Juvenile and Family Court Judges Conference. I hope that my experience on the bench and planning many conferences would serve as an asset to the standing committee and permit me to make a meaningful contribution to the committee. I am currently not serving on any other committees except the New Judge Orientation ad hoc committee formed by the Standing Education Committee. Thank you for your consideration.

## **LUND**

I am interested in serving on the education standing committee. My interest stems from service on various planning committees for educational conferences and the value that is gained from the content of those conferences. I am attaching a resume which also contains my current and past committee assignments. I recently ended my involvement on the Judicial Outreach committee and have an interest in finding another way that I can serve the judicial system.



# Administrative Office of the Courts

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

June 4, 2018

Richard H. Schwermer  
State Court Administrator  
Ray Wahl  
Deputy Court Administrator  
Jacey Skinner  
Deputy Court Administrator

## MEMORANDUM

**TO:** Management Committee

**FROM:** Kara J. Mann *KJM*

**RE:** Language Access Committee Appointment

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Currently, there is a vacancy on the Language Access Committee which must be filled by a certified interpreter in accordance with CJA Rule 1-205(1)(B)(ix). Miguel Medina was serving on the committee as a certified interpreter; however, he recently completed his second consecutive term on the committee.

At this time the Language Access Committee is comprised of the following members:

- Michelle Draper, Chair, ASL interpreter
- Judge Su Chon, Third District Court
- Mary Kaye Dixon, Judicial Assistant
- Amine El Fajri, Approved interpreter
- Monica Diaz Greene, Attorney, Utah Juvenile Defender Attorneys
- Megan Haney, Third District Probation Officer
- Judge Michael Leavitt, Fifth District Juvenile Court
- Randall McUne, Attorney
- Russ Pearson, TCE, Eighth District
- Lynn Wiseman, Clerk of Court, Second District
- Judge Kelly Schaeffer-Bullock, Highland Justice Court

An email was sent to all certified interpreters on the spoken language interpreter roster to announce the vacancy on the Language Access Committee. A subsequent email was sent out to certified interpreters extending the deadline as only one certified interpreter applied to be considered during the initial application process. Through this recruitment process, the Language Access Committee has the following two candidates to submit for consideration.

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

- Yadira Call, certified Spanish interpreter
- M. Fernanda Hernandez, certified Spanish interpreter

Each candidate's statement of interest and résumé are enclosed for your consideration. Additionally, Ms. Call and Ms. Hernandez are not currently serving and have never served on another committee.

Encl. Yadira Call statement of interest and résumé  
M. Fernanda Hernandez statement of interest and résumé

Yadira Call  
3518 Red Butte Dr.  
Santa Clara UT 84765  
[Yadira@CertifiedSpanishInterpreters.com](mailto:Yadira@CertifiedSpanishInterpreters.com)

To Whom It May Concern:

I am responding to an email I received asking for applicants to participate in the Language Access Committee. At first, I was not interested in applying because the distance from Santa Clara to Salt Lake City is considerable. But, as the deadline has been extended, it makes me think that the interpreters living closer to Salt Lake are not available. I believe this committee needs to be complete and have interested people involved to try to deal with the issues at hand.

I was brought up working at my parents clothing store. I had the opportunity to view things from a managerial perspective since I was about 12 years old. Later in life when I married, my husband and I opened our own retail stores. We worked them until we felt the need to leave Mexico because of the violent environment at the end of 2008.

I received my court interpreting certification in the State of Arkansas in 2010. Here I was exposed to the "abundance theory" mentality towards my colleagues. This has helped have a more cooperative attitude towards my fellow interpreters, instead of becoming competitive and guarded, as I had been in the retail business previously.

I have recently taken the Federal Court Interpreter Certification Examination, and still awaiting results. I continue to study to better my skills as an interpreter and love it when I can do so with other interpreters.

I appreciate the opportunity to apply to be part of the Language Access Committee.

Respectfully yours,

Yadira Call

## Yadira Call

435.817.7090

Santa Clara UT 84765

[Yadira@CertifiedSpanishInterpreters.com](mailto:Yadira@CertifiedSpanishInterpreters.com)

### Profile

President at Certified Spanish Interpreters, a full service interpreting and translating company based in St. George, UT.

I have been providing interpreting and translating services to businesses, legal professionals, medical professionals, and government agencies for over 8 years. During this time, I have given interpretation and translation services for hundreds of individuals.

### Specialties

Spanish Interpreting and translating for Legal, Business, Medical and Government Agencies

### Work History

**2011-Present:** Simultaneous interpretation, consecutive interpretation and sight translation for the U.S. District Courts, the State of Utah District Courts, the Washington County Justice Court, the City of Santa Clara, the Social Security Administration, Adult Probation and Parole – Utah Department of Corrections, private law firms and medical facilities.

**2011-Present:** Leading interpreting teams in the transcriptions and translations of audio files for the Carroll County Prosecuting Attorney, the Fourth District Prosecutor's Office and Benton County Prosecuting Office.

**2011-Present:** Document translations and editing services for the Law School Legal Clinic at the University of Arkansas,, Arkansas Administrative Office of the Courts, Xnslate 4 U and private individuals in need of certified translations

**2008-2011:** Simultaneous interpretation, consecutive interpretation and sight translation for the U.S. District Courts, the Arkansas Administrative Office of the Courts, the Social Security Administration, private law firms and medical facilities.

**1992-2011:** Retail Store co-owner and personnel manager at: Maxima Ropa para Niños, Niñolandia and Pañalandia in Nuevo Casas Grandes, Chihuahua, Mexico and Cd. Juarez, Chihuahua, Mexico.

### Education & Certifications

FCICE Written Examination – Federal passed in 2012

Court Interpreter Certification - State of Utah 2011

Court Interpreter Certification - State of Arkansas 2009

Brigham Young University, Fashion Merchandising, Provo UT 1987-1991

M. FERNANDA HERNANDEZ

801-655-3830 | ferher777@gmail.com

April 5, 2018

Kara Mann

Language Access Program Coordinator

Administrative Office of the Courts

450 S. State Street

Salt Lake City, UT 84114

Dear Kara:

With this letter I wish to express my desire to be considered for the position in the Standing Committee on Language Access. I have included a copy of my resume, please let me know if you have any questions.

Sincerely,

*Maria Fernanda Hernandez de Sazo*

M. Fernanda Hernandez

# M. Fernanda Hernandez de Sazo

1506 E 1820 S  
Spanish Fork, UT 84660  
[801-655-3830](tel:801-655-3830)

## **Objective:**

To provide accurate and professional services and facilitate communication for all parties involved. I also strive to develop strong partnerships, relationships, and trust to ensure my services are always a positive contribution.

## **Summary of Qualifications:**

Native Spanish and English Speaker

Ability to speak, read, and write in English and Spanish with professional vocabulary and able to summarize or explain in common vocabulary.

Dedicated, efficient, and responsible with personal work and work well with a team towards common goal and objectives.

Proficient with use of computer and other means of communication.

Able to handle high stress situations.

State certified interpreter and translator.

5 Years of experience in court, seminar, conference, and private interpretation and translation

## **Work Experience:**

### **The Church of Jesus Christ of Latter-day Saints (independently contracted) September 2013- Present**

- Simultaneous interpreter of church trainings, meetings and General Conference.
- Voice-over recording artist.
- Translation of church materials.

### **State of Utah (independently contracted) June 2014-Present**

- Certified court interpreter- sight, simultaneous, and consecutive.
- Trial, deposition, and attorney/ client meeting experience.

### **Freelance Interpreter September 2013-Present**

- Conference, arbitration, deposition, independent medical evaluations, etc.

### **McKell Christiansen Wise, PLLC July 2013-October 2017**

- Office receptionist: Handling phone calls, scheduling, and client/ attorney interaction.
- Paralegal-Specializing in bankruptcy, criminal proceedings.
- Case Manager for Personal Injury-Exclusive case management of all Spanish speaking clients which includes client/attorney interaction, communications with adjusters, and demand/ settlement process.

## **Education:**

August 2016-Present	Brigham Young University Idaho
August 2005-January 2006	Utah Valley University

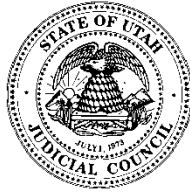
## **References:**

Pablo Silveira	Interpreter	801-687-4116
Genesis Roque	Interpreter	801-688-0396



# Tab 8



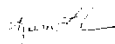


# Administrative Office of the Courts

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

## MEMORANDUM

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**To:** Management Committee / Judicial Council  
**From:** Keisa L. Williams   
**Date:** May 25, 2018  
**Re:** Rules for Public Comment

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The Policy and Planning Committee recommends the following proposed amendments to the Utah Code of Judicial Administration. The circumstances are outlined below. The Policy and Planning Committee recommends that these rules be approved by the Judicial Council for public comment.

**Rule CJA 3-401. Office of General Counsel.** Amend. Deletes certain unnecessary and outdated provisions.

The proposed amendment at lines 39-42, removes the requirement for the General Counsel to consult with the Chief regarding conflicts, time constraints or other judicial priorities when addressing requests for legal assistance. Those workload issues are addressed within the department and the AOC. The last line was removed because it is covered under the Code of Judicial Conduct. A note will be added to the publication summary stating, "Removal of this language does not abdicate Judges' responsibility to make their own decisions pursuant to the Code of Judicial Conduct."

The proposed amendment at lines 43, 45-46, and 50-51, removes the requirement that requests for legal representation be in writing and the requirement that copies be sent by the judicial officer to the AG's Office. This brings the rule in line with current practice.

The proposed amendment at lines 56-58, removes the requirement that requests for legal advice concerning the Code of Judicial Conduct be made in writing and directed to the General Counsel's Office for referral to the Ethics Advisory Committee. This requirement is covered under CJA 3-109 – Ethics Advisory Committee.

The proposed amendment at lines 60-62, removes the reference to a Memorandum of Understanding between the Council and the AG's office and adds a reference to Utah Code. The

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

MOU no longer exists and is unnecessary because the referenced code section covers the responsibilities of each party.

**Rule CJA 3-414. Court Security.** Amend. Allows the Court Security Director to possess a firearm and ammunition in a courthouse when qualified and requires court access cards to be color-coded.

The proposed amendment at lines 166-174, authorizes the AOC Court Security Director to possess a firearm in the courthouse if such possession is permitted by the local security plan and the director obtains certain training.

The proposed amendment at lines 222-226, requires that locally-produced court access badges issued to non-court employees incorporate certain background colors in order to more easily identify visitors.

**Rule CJA 3-104. Presiding Judges.** Amend. Requires that presiding judges develop a rotation of magistrates to ensure regular availability, taking into account caseload, location, and willingness to serve.

The proposed amendment at lines 175-178, requires presiding judges to develop a rotation of magistrates in the district to ensure adequate coverage. The presiding judges should consult with the justice court administrator to establish the rotations and should consider each magistrate's caseload, location and willingness to serve.

**Rule CJA 4-403. Electronic Signature and Signature Stamp Use.** Amend. Adds "orders appointing a court visitor" to the list of documents on which a clerk may use a judge's signature stamp, with prior approval from a judge or commissioner.

The proposed amendments at lines 21-23, would add orders appointing a court visitor to the list of documents on which clerks are allowed to, with prior approval from a judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining a signature directly from the judges/commissioners. This would bring the rule in line with current practice. These orders are basic and fairly common.

**Rule CJA 4-701. Failure to Appear.** Amend. Deletes the reference to failures to appear as a separate offense pursuant to S.B. 58, which eliminated the crime of failure to appear on a citation.

The proposed amendments at lines 12-13, deletes the reference to failures to appear as a separate offense pursuant to S.B. 58, which eliminated the crime of failure to appear on a citation.

**Rule CJA 4-202.03. Records Access.** Amend. Allows for access to certain records for Licensed Paralegal Practitioners. Allows access to juvenile court social records by entities or individuals providing services to juveniles.

The proposed amendments at lines 16, 20, 22, 34, and 44, allows Licensed Paralegal Practitioners access to various records similar to that of attorneys. These changes are to accommodate the new LPP program.

The proposed amendments at lines 69-72, allow access to juvenile court social records by public or private agencies or individuals providing services to juveniles and/or their families, including services pursuant to non-judicial adjustments. The amendments were approved by the Chief Probation Officers, Juvenile Court TCEs, the Juvenile Court Administrator, and the Board of Juvenile Court Judges. The rule requires a determination by a probation officer that access is necessary for the provision of effective services. The Juvenile Court Administrator will be working with appropriate stakeholders to craft internal policies for probation officers in making that determination.

**Rule CJA 4-202.09. Miscellaneous.** Amend. Adds specific requirements for records access requests for email correspondence.

The proposed amendment at lines 24-30, requires that records access requests for email correspondence be sufficiently detailed to allow the identification of the emails sought with reasonable specificity. Requests must be narrowly tailored so as not to be unduly burdensome and must include the subject matter, identify of individuals to whom emails were sent/received, if known, and the date or approximate date of the emails. The AOC's IT Department will develop the search parameters.

Encl. CJA 3-401  
CJA 3-414  
CJA 4-403  
CJA 4-701  
CJA 4-202.03  
CJA 4-202.09

**Rule 3-401. Office of General Counsel.**

**Intent:**

To establish the office of General Counsel within the Administrative Office.

To identify the office of General Counsel as the primary authority for coordinating the provision of legal services to the judiciary.

To establish uniform procedures governing the provision of legal services to the judiciary.

To define the relationship between the office of General Counsel and the Office of the Attorney General.

**Applicability:**

This rule shall apply to the judiciary.

**Statement of the Rule:**

(1) Establishment of office of general counsel. The office of General Counsel is established within the Administrative Office to provide legal services to the judiciary.

(2) Responsibility. The office of General Counsel shall have primary responsibility for providing the following legal services:

(A) informal advice and counsel;

(B) written opinions;

(C) legislative drafting;

(D) legal representation in administrative and judicial proceedings where the claimant is seeking declaratory, injunctive, or extraordinary relief or where risk management coverage is not provided;

(E) negotiation, drafting, and review of contracts and leases;

(F) consultation, drafting, and review of judicial policies and procedures;

(G) staff support to committees established by the Council and the Supreme Court; and

(H) coordination of and arrangement for legal representation by the Attorney General's Office or outside counsel in appropriate cases.

(3) Protocol for requesting legal assistance.

(A) Courts of record.

(i) Non-judicial officers and employees of the state.

(a) All requests for legal assistance, other than requests for informal advice or counsel, shall be in writing and directed to the appropriate state level administrator, who shall refer appropriate requests to the office of General Counsel.

(b) All requests for legal representation and indemnification shall be made in writing by the employee or officer who is named as a defendant. The request shall be made within ten days of service and directed to the office of General Counsel. A copy of the request shall be sent by the individual officer or employee to the Office of the Attorney General at that time. General Counsel shall be responsible for coordinating the legal representation of non-judicial officers and employees with the Attorney General's Office.

(ii) Judicial officers.

(a) All requests for legal assistance from judicial officers, other than requests for informal advice or counsel, shall be in writing and directed to General Counsel. ~~In cases where there are conflicts, time constraints or other judicial priorities, General Counsel shall consult with the presiding officer of the Council prior to responding to such requests. General Counsel shall not provide legal counsel or advice to judicial officers on issues which are pending before that court for resolution.~~

(b) All requests for legal representation and indemnification shall be made ~~in writing~~ by the judicial officer who is named as a defendant. The request shall be made within ten days of service and directed to General Counsel. ~~A copy of the request shall be sent by the judicial officer to the Office of the Attorney General at that time.~~ General Counsel shall be responsible for coordinating the legal representation of judicial officers with the Attorney General's Office.

(B) Courts not of record. All requests for legal assistance, representation and indemnification shall be made in writing by the officer or employee seeking assistance and directed to the appropriate governmental entity. ~~A copy of the request for assistance shall be sent by the officer or employee to the Office of General Counsel at that time.~~

(C) Judicial council, boards of judges, committees and task forces. All requests for legal assistance from the Council, the Boards, committees or task forces established by the Council or the Supreme Court shall be in writing and directed to General Counsel from the presiding officer of the Council, Board, committee or task force.

~~(D) Code of judicial conduct. All requests for legal advice concerning the Code of Judicial Conduct shall be made by individual judges in writing and directed to the Office of General Counsel for referral to the Ethics Advisory Committee.~~

(4) Relationship to attorney general's office. The provision of legal services to the judiciary by the Office of General Counsel and the Office of the Attorney General shall be governed by ~~the Memorandum of Understanding entered into between the Council and the Attorney General's office which shall be reviewed and updated annually if appropriate~~ this rule and Utah Code section 63G-7-901.

1    **Rule 3-414. Court security.**

2    **Intent:**

3    To promote the safety and well-being of judicial personnel, members of the bar and citizens  
4    utilizing the courts.

5    To establish uniform policies for court security consistent with Section 78A-2-203.

6    To delineate responsibility for security measures by the Council, the administrative office, local  
7    judges, court executives, and law enforcement agencies.

8    **Applicability:**

9    This rule shall apply to all courts.

10   Section (7) on weapons shall not apply to trial exhibits.

11   **Statement of the Rule:**

12   (1)   Definitions.

13   (1)(A) Court security. Court security includes the procedures, technology, and architectural  
14   features needed to ensure the safety and protection of individuals within the courthouse and the  
15   integrity of the judicial process. Court security is the joint effort of law enforcement and the  
16   judiciary to prevent or control such problems as, disorderly conduct, physical violence, theft,  
17   bomb threats, prisoner escapes, assassinations, and hostage situations.

18   (1)(B) A key manager is a person authorized by the court executive or Deputy State Court  
19   Administrator to issue, retrieve, activate, and deactivate keys and/or access cards to courthouses  
20   in their districts.

21   (1)(C) Presiding judge. As used in this rule, presiding judge includes the judge of a single-judge  
22   courthouse. The presiding judge may delegate the responsibilities of this rule to another judge.

23   (2)   Responsibilities of the Council.

24   (2)(A) The Council shall ensure that all design plans for renovation or new construction of court  
25   facilities are reviewed for compliance with The Utah Judicial System Design Standards.

26   (2)(B) As a condition for the certification of a new justice court or the continued certification of  
27   an existing justice court, the justice court shall file an acceptable local security plan with the  
28   Court Security Director and shall file amendments to the plan with the Court Security Director as  
29   amendments are made. The local security plan shall provide for the presence of a law  
30   enforcement officer or constable in court during court sessions or a reasonable response time by  
31   the local law enforcement agency upon call of the court.

32   (3)   Responsibilities of the Administrative Office.

(3)(A) The state court administrator shall appoint a Court Security Director who shall:

(3)(A)(i) review and keep on file copies of all local security plans; and

(3)(A)(ii) periodically visit the various court jurisdictions to offer assistance in the development or implementation of local security plans.

(3)(B) The state court administrator shall appoint a court executive in each judicial district to serve as a local security coordinator.

(3)(C) The Court Security Director shall promulgate general security guidelines to assist local jurisdictions in the development of court security plans.

(4) Responsibilities of the court executive.

(4)(A) The court executive designated as the local security coordinator shall:

(4)(A)(i) in consultation with the law enforcement administrator responsible for security and with the judges responsible for the security plan, develop and implement a local security plan for each court of record facility within the district;

(4)(A)(ii) annually review the local security plan with the presiding judge and the law enforcement administrator to identify deficiencies in the plan and problems with implementation;

(4)(A)(iii) file an acceptable local security plan with the Court Security Director; and

(4)(A)(iv) file amendments to the plan with the Court Security Director as amendments are made.

(4)(B) The local security plan for a courthouse and any amendments to it shall be approved by a majority of the judges of the district of any court level regularly occupying the courthouse.

Voting shall be without regard to court level. As used in this subsection the term “judges of the district of any court level occupying the courthouse” shall include all judges of the district court of the district and all judges of the juvenile court of the district regardless of whether a particular judge occupies the courthouse so long as at least one judge of that court level occupies the courthouse. The term also includes the justices of the Supreme Court, the judges of the Court of Appeals and all justice court judges who actually occupy the courthouse.

(4)(C) The court executive shall provide a copy of the current local security plan and annual training on the plan to all court personnel, volunteers and security personnel.

(4)(D) The local plan shall clearly delineate the responsibilities between court personnel and law enforcement personnel for all areas and activities in and about the courthouse.

(4)(E) The court clerk or probation officer, under the supervision of the court executive, shall provide timely notice to transportation officers of required court appearances and cancellation of

appearances for individuals in custody. The court shall consolidate scheduled appearances whenever practicable and otherwise cooperate with transportation officers to avoid unnecessary court appearances.

(4)(F) To the extent possible, the clerk of the court shall establish certain days of the week and times of day for court appearances of persons in custody in order to permit transportation officers reasonable preparation and planning time. The court shall give priority to cases in which a person in custody appears in order to prevent increased security risks resulting from lengthy waiting periods.

(5) Responsibilities of law enforcement agencies.

(5)(A) The law enforcement agency with responsibility for security of the courthouse, through a law enforcement administrator, shall:

(5)(A)(i) coordinate all law enforcement activities within the courthouse necessary for implementation of the security plan and for response to emergencies;

(5)(A)(ii) cooperate with the court executive in the development and implementation of a local security plan;

(5)(A)(iii) provide local law enforcement personnel with training as provided in this rule;

(5)(A)(iv) provide court bailiffs; and

(5)(A)(v) provide building and perimeter security.

(5)(B) The law enforcement agency responsible for court security shall be as follows:

(5)(B)(i) The Department of Public Safety for the Supreme Court and the Court of Appeals when they are in session in Salt Lake County. When convening outside of Salt Lake County, security shall be provided by the county sheriff. The Department of Public Safety may call upon the Salt Lake County Sheriff for additional assistance as necessary when the appellate courts are convening in Salt Lake County.

(5)(B)(ii) The county sheriff for district courts and juvenile courts within the county.

(5)(B)(iii) The county sheriff for a county justice court and the municipal police for a municipal justice court. The county or municipality may provide a constable to provide security services to the justice court. If a municipality has no police department or constable, then the law enforcement agency with which the municipality contracts shall provide security services to the justice court.

(6) Court bailiffs.

(6)(A) Qualifications. Bailiffs shall be “law enforcement officers” as defined in Section 53-13-103. At the discretion of the law enforcement administrator and with the consent of the presiding judge, bailiffs may be “special function officers” as defined by Section 53-13-105.

(6)(B) Training. Prior to exercising the authority of their office, bailiffs shall satisfactorily complete the basic course at a certified peace officer training academy or pass a waiver examination and be certified. Bailiffs shall complete 40 hours of annual training as established by the Division of Peace Officer Standards and Training. Bailiffs shall receive annual training on the elements of the court security plan, emergency medical assistance and the use of firearms.

(6)(C) Physical and mental condition. Court bailiffs shall be of suitable physical and mental condition to ensure that they are capable of providing a high level of security for the court and to ensure the safety and welfare of individuals participating in court proceedings. Bailiffs shall be capable of responding appropriately to any potential or actual breach of security.

(6)(D) Appointment. The appointment of a bailiff is subject to the concurrence of the presiding judge.

(6)(E) Supervision. The court bailiff shall be supervised by the appointing authority and perform duties in compliance with directives of the appointing authority.

(6)(F) Responsibilities. Court bailiff responsibilities shall include but are not limited to the following.

(6)(F)(i) The bailiff shall prevent persons in custody from having physical contact with anyone other than the members of the defense counsel’s team. Visitation shall be in accordance with jail and prison policies and be restricted to those facilities.

(6)(F)(ii) The bailiff shall observe all persons entering the courtroom, their movement and their activities. The bailiff shall control access to the bench and other restricted areas.

(6)(F)(iii) The bailiff shall search the interior of the courtroom and restricted areas prior to the arrival of any other court participants. Similar searches shall be conducted following recesses to ensure the room is clear of weapons, explosives, or contraband.

(6)(F)(iv) Bailiffs shall wear the official uniform of the law enforcement agency by whom they are employed.

(6)(F)(v) Bailiffs shall comply with the directives of the judge or commissioner with respect to security related activities and shall perform other duties incidental to the efficient functioning of the court which do not detract from security functions. Activities wholly unrelated to security or function of the court, including personal errands, shall not be requested nor performed.

(6)(F)(vi) Bailiffs shall perform responsibilities provided for in the local court security plan.

129 (6)(F)(vii) The bailiff shall maintain a clear line of sight of all courtroom participants and shall  
130 be between individuals who are in custody and courtroom exits.

131 (7) Weapons.

132 (7)(A) Weapons generally.

133 (7)(A)(i) A courthouse is presumed to be free of all weapons and firearms unless a local security  
134 plan provides otherwise in accordance with this rule. No person may possess an explosive device  
135 in a courthouse. Except as permitted by this rule, no person may possess a firearm, ammunition,  
136 or dangerous weapon in a courthouse.

137 (7)(A)(ii) All firearms permitted under this rule and a local security plan:

138 (7)(A)(ii)(a) and carried upon the person shall be concealed unless worn as part of a public law  
139 enforcement agency uniform;

140 (7)(A)(ii)(b) Shall remain in the physical possession of the person authorized to possess it and  
141 shall not be placed in a drawer, cabinet, briefcase or purse unless the person has physical  
142 possession of the briefcase or purse or immediate control of the drawer or cabinet or the drawer  
143 or cabinet is locked; and

144 (7)(A)(ii)(c) Shall be secured in a holster with a restraining device.

145 (7)(B) Persons authorized to possess a firearm or other weapon.

146 (7)(B)(i) The following officers may possess a firearm and ammunition in a courthouse if the  
147 firearm is issued by or approved by the officer's appointing authority, if possession is required or  
148 permitted by the officer's appointing authority and the local security plan, and if the officer  
149 presents valid picture identification:

150 (7)(B)(i)(a) "Law enforcement officer" as defined in Section 53-13-103;

151 (7)(B)(i)(b) "correctional officer" as defined in Section 53-13-104;

152 (7)(B)(i)(c) "special function officer" as defined in Section 53-13-105;

153 (7)(B)(i)(d) "Federal officer" as defined in Section 53-13-106; and

154 (7)(B)(i)(e) a private security officer, licensed under Utah Code Title 58, Chapter 63, Security  
155 Personnel Licensing Act, hired by the court or the court's banker to transport money.

156 (7)(B)(ii) A judge or law enforcement official as defined in Section 53-5-711 may possess in a  
157 courthouse a firearm and ammunition for which the judge or law enforcement official has a valid  
158 certificate of qualification issued under Section 53-5-711 if possession is permitted by the local  
159 security plan.

(7)(B)(iii) A court commissioner may possess in a courthouse a firearm and ammunition for which the court commissioner has a concealed weapons permit, but only if the court commissioner has obtained the training and annual retraining necessary to qualify for a certificate issued under Section 53-5-711 and if possession is permitted by the local security plan.

(7)(B)(iv) The Court Security Director may possess in a courthouse a firearm and ammunition for which the court security director has a concealed weapons permit, but only if possession is permitted by the local security plan and the director has obtained the training and annual retraining necessary to:

(7)(B)(iv)(a) qualify for a certificate issued under Section 53-5-711,

(7)(B)(iv)(b) qualify as a Utah police officer firearms instructor in accordance with Utah Administrative Code R728-502-9(4), or

(7)(B)(iv)(c) qualify as a retired law enforcement officer in accordance with United States Code Title 18, Part I, Chapter 44, Section 926C.

(7)(B)(iv)(v) A person permitted under subsections (i), (ii), ~~or (iii)~~, or (iv) to possess a firearm nevertheless shall not possess a firearm in a courthouse if the person is appearing at the courthouse as a party to litigation. A person possessing a firearm in a courtroom shall notify the bailiff or the judge.

(7)(B)(~~v~~)(vi) If permitted by the local security plan, court personnel and volunteers may possess in a courthouse an otherwise legal personal protection device other than a firearm. Court personnel and volunteers shall not possess a personal protection device while appearing as a party to litigation. Court personnel and volunteers shall not possess a firearm while on duty.

(7)(C) Firearm training requirements.

(7)(C)(i) To requalify for a certificate issued under Section 53-5-711 a judge shall annually complete with a passing score a range qualification course for judges and law enforcement officials established by the Department of Public Safety or a course established by any law enforcement agency of the state of Utah or its political subdivision for the requalification of its officers.

(7)(C)(ii) The cost of firearms, ammunition, initial qualification, requalification and any other equipment, supplies or fees associated with a certificate of qualification issued under Section 53-5-711 shall be the responsibility of the judge or court commissioner and shall not be paid from state funds.

(8) Security devices and procedures.

(8)(A) Metal detectors. The use of metal detectors or other screening devices, ~~W~~where present, shall be used by the law enforcement agency responsible for security/bailiff services.

(8)(B) Physical search. Searches of persons in or about the courthouse or courtroom shall be conducted at the discretion of the law enforcement agency responsible for security when the local law enforcement agency has reason to believe that the person to be searched is carrying a weapon or contraband into or out of the courthouse or when the court so orders. No other person is authorized to conduct such searches. Written notice of this policy shall be posted in a conspicuous place at the entrance to all court facilities.

(8)(C) All persons in custody shall be kept in a holding cell, restrained by restraining devices, or supervised at all times while in court unless otherwise specifically ordered by the judge in whose courtroom the individual appears.

(8)(D) Extra security. In anticipated high risk situations or a highly publicized case, the law enforcement agency responsible for security should, on its own initiative or in response to an order of the court, provide extra security including additional personnel, controlled access, etc. A written operational plan outlining and assigning security duties should be developed in conjunction with the presiding judge, the court executive and the Court Security Director.

(8)(E) Courthouse Access Control. Only judges, court staff, and security and maintenance staff assigned to the courthouse will be granted access card/keys and only to those areas of the courthouse to which the individual needs access. No access cards or keys shall be issued solely for convenience purposes. Any exceptions to this rule must be pre-approved, in writing, by the Deputy State Court Administrator.

(8)(E)(i) Access cards or keys will be issued by a key manager only with the prior written authorization of the court executive(s) or Deputy State Court Administrator. Detailed recording of all card/key transactions will be the responsibility of the key manager. Supervisors shall recover all issued keys/cards from court personnel who are terminated, suspended or transferred or if loss of privileges is part of an adverse personnel action. Supervisors will return the cards/keys to the court executive who will deactivate the access card. If the access card is not returned as required, the supervisor will immediately contact the key manager to deactivate the card.

(8)(E)(ii) Locally produced proxy access cards and badges issued to non-court employees (excluding assigned DFCM and security) will incorporate a distinctive background color to visually identify personal access levels. Access badges issued to persons with an approved local background check will use an orange background and those without a locally approved background check will be issued a badge with a yellow background.

~~(8)(E)(ii)~~(iii) Court personnel shall possess their court-issued identification at all times when in the courthouse or staff parking area. Court personnel may not loan their identification cards,

229 access cards or keys to others and must report any lost or missing identification or access card  
230 key to the key manager or their direct supervisor as soon as possible after the loss is discovered.  
231 Any lost access card will be deactivated before a replacement card is issued.

232 ~~(8)(E)(iii)~~(iv) Court personnel with a court-issued identification card may bypass security  
233 screening only when they are assigned to that particular courthouse. Court personnel from other  
234 courthouses will be required to successfully pass through the security screening area before  
235 being allowed entry.

236 ~~(8)(E)(iv)~~(v) The court executive will undertake a semiannual review of access card records to  
237 ensure that no unauthorized use is occurring.

238 (8)(F) In order to protect the safety and welfare of court customers, no one is permitted to block  
239 the entry or exit of a courthouse and no one is permitted to picket, parade, proselytize,  
240 demonstrate or distribute leaflets, pamphlets, brochures or other materials inside a courthouse.

241 (9) Transportation of persons in custody.

242 (9)(A) The federal, state, county or municipal agency with physical custody of a person whose  
243 appearance in court is required is responsible for transportation of that person to and from the  
244 courtroom.

245 (9)(B) The transportation officer shall:

246 (9)(B)(i) remain present at all times during court appearances;

247 (9)(B)(ii) be responsible for the custody of such persons;

248 (9)(B)(iii) Support the court bailiff in the preservation of peace in the courthouse and courtroom;

249 (9)(B)(iv) Provide advance notice of the transportation and of any extraordinary security  
250 requirements to the law enforcement agency responsible for court security, to the judge, and to  
251 the bailiff;

252 (9)(B)(v) Comply with any regulations of the county sheriff regarding the transportation of  
253 persons in custody to court; and

254 (9)(B)(vi) return the person in custody to the proper place of confinement.

255 (9)(C) The law enforcement agency responsible for court security shall provide assistance to the  
256 transportation officer as circumstances dictate.

1       **Rule 4-403. Electronic signature and signature stamp use.**

2       **Intent:**

3       To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and  
4       signature stamps.

5       **Applicability:**

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

7       **Statement of the Rule:**

8       (1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or  
9       signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:

10       (1)(A) bail bonds from approved bondsmen;

11       (1)(B) bench warrants;

12       (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when  
13       stipulated by both parties in contested cases;

14       (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

15       (1)(E) orders to show cause;

16       (1)(F) orders to take into custody;

17       (1)(G) summons;

18       (1)(H) supplemental procedure orders;

19       (1)(I) orders setting dates for hearing and for notice;

20       (1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release  
21       information concerning a debtor, where neither DWS nor the debtor opposes the motion; ~~and~~

22       (1)(K) orders for transportation of a person in custody to a court hearing; and

23       (1)(L) orders appointing a court visitor.

24       (2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature  
25       stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath  
26       the electronic signature or stamped imprint of the judge's or commissioner's signature.

27       (3) All other documents requiring the judge's or commissioner's signature shall be personally signed  
28       by the judge or commissioner, unless the judge or commissioner, on a document by document basis,  
29       authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of  
30       the judge's or commissioner's signature. On such documents, the clerk shall indicate in writing that the  
31       electronic signature or signature stamp was used at the direction of the judge or commissioner and shall  
32       sign his or her name directly beneath the electronic signature or stamped imprint of the judge's or  
33       commissioner's signature.

**Rule 4-701. Failure to appear.**

**Intent:**

To establish a procedure for handling cases in which the defendant fails to appear and fails to forfeit bail.

**Applicability:**

This rule shall apply to cases in which the defendant's appearance is not required.

**Statement of the Rule:**

(1) When a case is filed, the clerk may mail to the defendant a notice indicating the bail amount. If the defendant fails to appear or forfeit the bail amount within fourteen days after receiving a citation, the clerk may increase the bail amount by \$50 and mail the defendant a delinquency notice.

(2)(A) If the defendant fails to appear or forfeit the bail amount within forty days after receiving a citation, the court may increase the bail amount by \$75 and issue a warrant for failure to appear; ~~a separate offense of Failure to Appear need not be filed.~~

(2)(B) If the defendant is a juvenile, the court may issue a bench warrant or order to take the defendant into custody. If a bench warrant is issued, a special designation or "flag" shall be placed on the warrant indicating that the defendant is a juvenile.

(3) If a minor fails to appear in juvenile court on a charge which would constitute an infraction if committed by an adult:

(3)(A) The court shall not issue an Order for Detention.

(3)(B) The court may authorize the probation department to file an order to show cause.

**Rule 4-202.03. Records access.**

**Intent:**

To identify who may access court records.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:**

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. Otherwise, no one may access a sealed court record except by order of the court. A judge may review a sealed record when the circumstances warrant.

(3) **Private Court Records.** The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party, ~~or~~ attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

(3)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

(4) **Protected Court Records.** The following may access a protected court record:

(4)(A) the person or governmental entity whose interests are protected by closure;

(4)(B) the parent or guardian of the person whose interests are protected by closure if the person is an unemancipated minor or under a legal incapacity;

(4)(C) the person who submitted the record;

(4)(D) the attorney or licensed paralegal practitioner for the person who submitted the record or for the person or governmental entity whose interests are protected by closure or for the parent or guardian of the person if the person is an unemancipated minor or under a

37 legal incapacity or an individual who has a power of attorney from such person or  
38 governmental entity;

39 (4)(E) an individual with a release from the person who submitted the record or from the  
40 person or governmental entity whose interests are protected by closure or from the  
41 parent or guardian of the person if the person is an unemancipated minor or under a legal  
42 incapacity signed and notarized no more than 90 days before the date the request is  
43 made;

44 (4)(F) a party, ~~or~~ attorney for a party, or licensed paralegal practitioner to litigation in which  
45 the record is filed;

46 (4)(G) anyone by court order;

47 (4)(H) court personnel, but only to achieve the purpose for which the record was submitted;

48 (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

49 (4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

50 (5) **Juvenile Court Social Records.** The following may access a juvenile court social record:

51 (5)(A) the subject of the record, if 18 years of age or over;

52 (5)(B) a parent or guardian of the subject of the record if the subject is  
53 an unemancipated minor;

54 (5)(C) an attorney or person with power of attorney for the subject of the record;

55 (5)(D) a person with a notarized release from the subject of the record or the subject's legal  
56 representative dated no more than 90 days before the date the request is made;

57 (5)(E) the subject of the record's therapists and evaluators;

58 (5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad  
59 Litem, and an Attorney General involved in the litigation in which the record is filed;

60 (5)(G) a governmental entity charged with custody, guardianship, protective supervision,  
61 probation or parole of the subject of the record including juvenile probation, Division of  
62 Child and Family Services and Juvenile Justice Services;

63 (5)(H) the Department of Human Services, school districts and vendors with whom they or  
64 the courts contract (who shall not permit further access to the record), but only for court  
65 business;

66 (5)(I) court personnel, but only to achieve the purpose for which the record was submitted;

67 (5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

68 (5)(K) the person who submitted the record;

69 (5)(L) public or private individuals or agencies providing services to the subject of the record  
70 or to the subject's family, including services provided pursuant to a nonjudicial  
71 adjustment, if a probation officer determines that access is necessary to provide effective  
72 services.

73 (5)(~~L~~M) anyone by court order.

(5)(~~MN~~) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

(5)(~~MN~~)(i) the subject of the record, if age 18 or over;

(5)(~~MN~~)(ii) an attorney or person with power of attorney for the subject of the record;

(5)(~~MN~~)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(~~MN~~)(iv) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(~~MN~~)(v) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(~~MN~~)(vi) anyone by court order.

(5)(~~NO~~) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

(6) **Juvenile Court Legal Records.** The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) ~~a~~ public or private individuals or agencies providing services to the subject of the record or to the subject's family; and

(6)(E) the victim of a delinquent act may access the disposition order entered against the defendant.

(7) **Safeguarded Court Records.** The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney or licensed paralegal practitioner for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

- 111 (7)(l) a person given access to the record in order for juvenile probation to fulfill a probation  
112 responsibility.
- 113 (8) Court personnel shall permit access to court records only by authorized persons. The court  
114 may order anyone who accesses a non-public record not to permit further access, the violation  
115 of which may be contempt of court.
- 116 (9) If a court or court employee in an official capacity is a party in a case, the records of the party  
117 and the party's attorney are subject to the rules of discovery and evidence to the same extent  
118 as any other party.

**Rule 4-202.09. Miscellaneous.**

**Intent:**

To set forth miscellaneous provisions for these rules.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:**

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subject to the Government Records Access Management Act (GRAMA) and Chapter 4, Article 2 of the Code of Judicial Administration, a request for email correspondence shall be sufficiently detailed to identify the email(s) sought with reasonable specificity. The request shall be narrowly tailored to yield a search that is not unduly burdensome. Requests shall include the subject matter of the email(s), the identity of individuals to whom the email(s) were sent or received, if known, and the date, or approximate date(s) of email(s). Upon receipt of a request, the person handling the request will forward it to the Court Information Technology Department, a representative of which will develop the parameters of the search.

~~(6)~~ Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

~~(7)~~ If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(87) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(98) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(109)(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information. The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record. The person filing a private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

(109)(B) A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.

(109)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(109)(C)(i) social security number: last four digits;

(109)(C)(ii) financial or other account number: last four digits;

(109)(C)(iii) driver's license number: state of issuance and last four digits;

(109)(C)(iv) address of a non-party: city, state and zip code;

(109)(C)(v) email address or phone number of a non-party: omit; and

(109)(C)(vi) minor's name: initials.

(109)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

(110)(A) Notwithstanding Rule 4-202.02, except as otherwise ordered by the court and except as provided in subsections (B) and (C), if a case involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, all records shall be classified as public records under Rule 4-202.02.

(110)(B) Except as provided in subsection (C), all records in a case that involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, shall be protected if the case also involves commercial information as that term is defined by Utah Code § 59-1-404.

(110)(C) For a case described in subsection (B):

(110)(C)(i) if a request for a specific record, or access to all records in a case, is made to the court and notice is given to the taxpayer, such record or records shall be released within 14 days after notice is given to the taxpayer, except for specific records ordered by the court to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3);

74 (110)(C)(ii) thirty days after the issuance of a non-appealable final order by the court, all records shall be  
75 public unless the court orders specific records to be classified as sealed, private, protected, or  
76 safeguarded pursuant to a motion made under Rule 4-202.04(3).  
77 (110)(C)(iii) The public shall have access to the case history, notwithstanding the limitations in this rule  
78 applicable to the underlying records.

# Tab 9



☐ This is a private record.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner  
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the ☐ District ☐ Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

**Motion to Change Venue**

(Utah Code 78B-3-309)

☐ Hearing Requested

\_\_\_\_\_  
Plaintiff/Petitioner

\_\_\_\_\_  
Case Number

v.

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Defendant/Respondent

\_\_\_\_\_  
Commissioner (domestic cases)

1. I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent.
2. I ask to move the case to \_\_\_\_\_ (County or court location.)
3. I ask to move the case to a different location because (Choose all that apply):  
☐ The case is filed in the wrong county. (Explain):

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☐ I will not be able to have an impartial trial in my current county. (Explain):

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☐ It would be more convenient to the witnesses and it would promote justice to move my case. (Explain):

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☐ Other (Explain):

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4. All costs associated with moving the case will be paid by:

☐ Plaintiff/Petitioner

☐ Defendant/Respondent

☐ Other \_\_\_\_\_

5. ☐ I request a hearing.

☐ I do not request a hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

\_\_\_\_\_  
Date

Signature ►

Printed Name

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**Notice to responding party**

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Finding help**

The court's Finding Legal Help web page ([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

**Aviso para el demandado (o acusado)**

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Cómo encontrar ayuda legal**

La página de la internet del tribunal Cómo encontrar ayuda legal

([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

### Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Change Venue on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

In the [ ] District [ ] Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

**Order on Motion to Change Venue**

\_\_\_\_\_  
Plaintiff/Petitioner

v.

\_\_\_\_\_  
Defendant/Respondent

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Commissioner (domestic cases)

The matter before the court is a Motion to Change Venue. This matter is being resolved by: (Choose all that apply.)

[ ] The default of [ ] Plaintiff/Petitioner [ ] Defendant/Respondent.

[ ] The stipulation of the parties.

[ ] The pleadings and other papers of the parties.

[ ] A hearing held on \_\_\_\_\_ (date), notice of which was served on all parties.

Plaintiff/Petitioner

[ ] was present [ ] was not present.

[ ] was represented by \_\_\_\_\_ (name).

[ ] was not represented.

Defendant/Respondent

☐ was present    ☐ was not present.

☐ was represented by \_\_\_\_\_ (name).

☐ was not represented.

**The court finds:**

1.     (Choose all that apply.)

☐ The case is filed in the wrong county.

☐ The moving party will not be able to have an impartial trial in the current county.

☐ It would be more convenient for the witnesses and would promote justice to move the case.

☐ Other:

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Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

**The court orders:**

2.     The Motion to Change Venue is    ☐ granted    ☐ denied.

3.     ☐ The case shall be moved to \_\_\_\_\_.  
          (County or court location.)

4.     ☐ All costs associated with moving the case will be paid by:

☐ Plaintiff/Petitioner

☐ Defendant/Respondent

☐ Reserved

☐ Other \_\_\_\_\_

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

\_\_\_\_\_ Signature ► \_\_\_\_\_

Date

Commissioner

Signature ►

Date

Judge

Approved as to form.

Signature ►

Date

Plaintiff/Petitioner, Attorney or Licensed  
Paralegal Practitioner

Signature ►

Date

Defendant/Respondent, Attorney or Licensed  
Paralegal Practitioner

### Certificate of Service

I certify that I filed with the court and served a copy of this Order on Motion to Change Venue on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

☐ This is a private record.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner  
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the ☐ District ☐ Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

	<b>Motion to Appear Remotely</b> (Utah Code of Judicial Administration Rule 4-106)
_____ Plaintiff/Petitioner	_____ Case Number
v.	_____ Judge
_____ Defendant/Respondent	_____ Commissioner (domestic cases)

1. The following proceeding is scheduled for \_\_\_\_\_ (date):
- ☐ Scheduling conference
  - ☐ Hearing (Describe): \_\_\_\_\_
  - ☐ Evidentiary hearing
  - ☐ Pre-trial conference
  - ☐ Trial
  - ☐ Other (Describe): \_\_\_\_\_

2. I ask that the following people be allowed to participate from a location other than the courtroom (Choose all that apply.):

☐ Plaintiff/Petitioner: \_\_\_\_\_ (name)

☐ Defendant/Respondent: \_\_\_\_\_ (name)

☐ Plaintiff/Petitioner's Attorney: \_\_\_\_\_ (name)

☐ Defendant/Respondent's Attorney: \_\_\_\_\_ (name)

☐ Witness: \_\_\_\_\_ (name)

☐ Other: \_\_\_\_\_ (name)

3. I ask this because:

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4. I ask the person be allowed to participate by (Choose one.):

☐ Telephone

☐ Video conferencing arranged by: \_\_\_\_\_

☐ Other (Describe): \_\_\_\_\_

5. ☐ The attorney and client will be able to communicate confidentially by:  
(Complete only if the person appearing remotely is an attorney or a person represented by an attorney.)

---

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6. The person appearing remotely will have access to documents, photos and other things presented in the courtroom by:

---

---

7. A spoken or sign language interpreter: (Choose one.)

☐ is not required by the person appearing remotely.

☐ is required by the person appearing remotely.

8. The remote appearance will not interfere with making a verbatim record of the hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

### Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Appear Remotely on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

\_\_\_\_\_ Signature ► \_\_\_\_\_  
 Date \_\_\_\_\_ Printed Name \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

In the [ ] District [ ] Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

**Order on Motion to Appear Remotely**

\_\_\_\_\_  
Plaintiff/Petitioner

v.

\_\_\_\_\_  
Defendant/Respondent

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Commissioner (domestic cases)

The matter before the court is a Motion to Appear Remotely. This matter is being resolved by: (Choose all that apply.)

[ ] The default of [ ] Plaintiff/Petitioner [ ] Defendant/Respondent.

[ ] The stipulation of the parties.

[ ] The pleadings and other papers of the parties.

[ ] A hearing held on \_\_\_\_\_ (date), notice of which was served on all parties.

Plaintiff/Petitioner

[ ] was present [ ] was not present.

[ ] was represented by \_\_\_\_\_ (name).

[ ] was not represented.

Defendant/Respondent

☐ was present ☐ was not present.

☐ was represented by \_\_\_\_\_ (name).

☐ was not represented.

**The court finds:**

1. The following proceeding is scheduled for \_\_\_\_\_ (date):
  - ☐ Scheduling conference
  - ☐ Hearing (Describe): \_\_\_\_\_
  - ☐ Evidentiary hearing
  - ☐ Pre-trial conference
  - ☐ Trial
  - ☐ Other (Describe): \_\_\_\_\_
2. There ☐ is ☐ is not good cause to allow remote appearance(s).
3. The remote appearance(s) ☐ will ☐ will not allow:
  - a party and the party's counsel to communicate confidentially;
  - documents, photos, and other items presented in the courtroom to be delivered to the remote participants before or during the proceedings;
  - interpretation for a person who has a limited English proficiency or is deaf or hard of hearing; and
  - a verbatim record of the hearing.

Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

**The court orders:**

4. The Motion to Appear Remotely is ☐ granted ☐ denied for the proceeding scheduled for \_\_\_\_\_ (date).
5. ☐ The following people will be allowed to participate from a location other than the courtroom:
  - ☐ Plaintiff/Petitioner: \_\_\_\_\_ (name)

☐ Defendant/Respondent: \_\_\_\_\_ (name)

☐ Plaintiff/Petitioner's Attorney: \_\_\_\_\_ (name)

☐ Defendant/Respondent's Attorney: \_\_\_\_\_ (name)

☐ Witness: \_\_\_\_\_ (name)

☐ Other: \_\_\_\_\_ (name)

6. ☐ The person(s) listed above may participate by (Choose one.):

☐ Telephone

☐ Video conferencing arranged by: \_\_\_\_\_

☐ Other (Describe): \_\_\_\_\_

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

\_\_\_\_\_  
Date Signature ► \_\_\_\_\_  
Commissioner \_\_\_\_\_

\_\_\_\_\_  
Date Signature ► \_\_\_\_\_  
Judge \_\_\_\_\_

Approved as to form.

\_\_\_\_\_  
Date Signature ► \_\_\_\_\_  
Plaintiff/Petitioner, Attorney or Licensed  
Paralegal Practitioner \_\_\_\_\_

\_\_\_\_\_  
Date Signature ► \_\_\_\_\_  
Defendant/Respondent, Attorney or Licensed  
Paralegal Practitioner \_\_\_\_\_

### Certificate of Service

I certify that I filed with the court and served a copy of this Order on Motion to Appear Remotely on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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

\_\_\_\_\_  
 Signature ►

\_\_\_\_\_  
 Printed Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

In the Juvenile Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

State of Utah, in the interest of

\_\_\_\_\_  
Last name, first name

\_\_\_\_\_  
Date of birth

A minor

☐ under ☐ over 18 years of age, and  
☐ represented ☐ not represented.

**Motion to Appear Remotely**

(Utah Rule of Juvenile Procedure 29B)

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Incident(s)

\_\_\_\_\_  
Judge

1. The following proceeding is scheduled for \_\_\_\_\_ (date).

(Type of hearing): \_\_\_\_\_

2. I ask that the following people be allowed to participate from a location other than the courtroom (Choose all that apply.):

☐ Petitioner: \_\_\_\_\_ (name)

☐ Respondent: \_\_\_\_\_ (name)

☐ Petitioner's Attorney: \_\_\_\_\_ (name)

- ☐ Respondent's Attorney: \_\_\_\_\_ (name)
- ☐ Guardian ad Litem: \_\_\_\_\_ (name)
- ☐ Parent: \_\_\_\_\_ (name)
- ☐ Guardian: \_\_\_\_\_ (name)
- ☐ Custodian: \_\_\_\_\_ (name)
- ☐ Witness: \_\_\_\_\_ (name)
- ☐ Other: \_\_\_\_\_ (name)

3. I ask this because:

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4. I ask the person be allowed to participate by (Choose one.):

- ☐ Telephone
- ☐ Video conferencing arranged by: \_\_\_\_\_
- ☐ Other (Describe): \_\_\_\_\_

5. ☐ The party and party's counsel will be able to communicate confidentially by:  
(Complete only if the person appearing remotely is an attorney or a person represented by an attorney.)

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6. The person appearing remotely will have access to documents, photos and other things presented in the courtroom by:

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7. A spoken or sign language interpreter: (Choose one.)

- ☐ is not required by the person appearing remotely.
- ☐ is required by the person appearing remotely.

8. The remote appearance will not interfere with making a verbatim record of the hearing.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

### Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Appear Remotely on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
(Prosecutor)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.)		
(Intake/Probation Officer)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.)		
(Attorney General)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.)		
(Guardian ad Litem)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.)		
(Other)	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.)		

\_\_\_\_\_ Signature ► \_\_\_\_\_  
 Date \_\_\_\_\_  
 Printed Name \_\_\_\_\_

In the Juvenile Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

State of Utah, in the interest of

**Order on Motion to Appear Remotely**

\_\_\_\_\_  
Last name, first name

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Date of birth

\_\_\_\_\_  
Incident(s)

A minor

☐ under ☐ over 18 years of age, and  
☐ represented ☐ not represented.

\_\_\_\_\_  
Judge

The matter before the court is a Motion to Appear Remotely.

**The court finds:**

1. The following proceeding is scheduled for \_\_\_\_\_ (date):  
(Type of hearing): \_\_\_\_\_
2. There ☐ is ☐ is not good cause to allow remote appearance(s).
3. The remote appearance(s) ☐ will ☐ will not allow:
  - a party and the party's counsel to communicate confidentially;
  - documents, photos, and other items presented in the courtroom to be delivered to the remote participants before or during the proceedings;
  - interpretation for a person who has a limited English proficiency or is deaf or hard of hearing; and
  - a verbatim record of the hearing.
4. ☐ The party not calling the witness waives confrontation of the witness in person.

Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

**The court orders:**

4. The Motion to Appear Remotely is ☐ granted ☐ denied for the proceeding scheduled for \_\_\_\_\_ (date).
5. ☐ The following people will be allowed to participate from a location other than the courtroom:
- ☐ Petitioner: \_\_\_\_\_ (name)
  - ☐ Respondent: \_\_\_\_\_ (name)
  - ☐ Petitioner's Attorney: \_\_\_\_\_ (name)
  - ☐ Respondent's Attorney: \_\_\_\_\_ (name)
  - ☐ Guardian ad Litem: \_\_\_\_\_ (name)
  - ☐ Parent: \_\_\_\_\_ (name)
  - ☐ Guardian: \_\_\_\_\_ (name)
  - ☐ Custodian: \_\_\_\_\_ (name)
  - ☐ Witness: \_\_\_\_\_ (name)
  - ☐ Other: \_\_\_\_\_ (name)
6. ☐ The person(s) listed above may participate by (Choose one.):
- ☐ Telephone
  - ☐ Video conferencing arranged by: \_\_\_\_\_
  - ☐ Other (Describe): \_\_\_\_\_

\_\_\_\_\_  
Date

Signature ►

\_\_\_\_\_  
Judge

☐ This is a private record.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner  
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the ☐ District ☐ Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

	<b>Motion to Continue Hearing or Trial</b>
_____	_____
Plaintiff/Petitioner	Case Number
v.	_____
_____	Judge
Defendant/Respondent	_____
	Commissioner (domestic cases)

1. ☐ Plaintiff/Petitioner ☐ Defendant/Respondent requests the hearing or trial scheduled for \_\_\_\_\_ (date) be continued to another date.

2. I make this request because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. I ask the hearing or trial be scheduled after this date: \_\_\_\_\_ .

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

**Notice to responding party**

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Finding help**

The court's Finding Legal Help web page ([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

**Aviso para el demandado (o acusado)**

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Cómo encontrar ayuda legal**

La página de la internet del tribunal Cómo encontrar ayuda legal

([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

### Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Continue Hearing or Trial on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

In the [ ] District [ ] Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Petitioner

v.

\_\_\_\_\_  
Defendant/Respondent

**Order on Motion to Continue  
Hearing or Trial**

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Commissioner (domestic cases)

The matter before the court is a Motion to Continue Hearing or Trial. This matter is being resolved by the pleadings and other papers of the parties.

Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

**The court orders:**

1. The Motion to Continue is [ ] granted [ ] denied.
2. [ ] The hearing or trial scheduled for \_\_\_\_\_ (date) is continued to another date to be scheduled by the court.
3. [ ] A scheduling conference will be held \_\_\_\_\_ (date).

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

_____	Signature ►	_____
Date	Commissioner	_____

_____	Signature ►	_____
Date	Judge	_____

Approved as to form.

_____	Signature ►	_____
Date	Plaintiff/Petitioner, Attorney or Licensed Paralegal Practitioner	_____

_____	Signature ►	_____
Date	Defendant/Respondent, Attorney or Licensed Paralegal Practitioner	_____

### Certificate of Service

I certify that I filed with the court and served a copy of this Order on Motion to Continue Hearing or Trial on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

**This is a private record.**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Petitioner ☐ Respondent  
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Petitioner's Licensed Paralegal Practitioner  
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

	<b>Notice of Relocation</b> (Utah Code 30-3-37)
Petitioner	Case Number _____
v.	Judge _____
Respondent	Commissioner _____

1. I am the ☐ petitioner ☐ respondent in this case.
2. I intend to move more than 150 miles from the other parent's residence to the following address:  
Street: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_
3. I intend to move on this date: \_\_\_\_\_.

4. I understand that neither parent will interfere with the other's parental rights.

5. I will follow the parent-time provisions in Utah Code 30-3-37, or a schedule approved by both parties, or new court orders.

6. I propose the following parent-time schedule based on my move (Choose one.):

☐ Utah Code 30-3-37(6) (You can find the Utah Code at [le.utah.gov/xcode/code.html](http://le.utah.gov/xcode/code.html). Print and attach a copy of the statute.)

☐ Other schedule as follows (Attach additional pages if needed.):

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7. I propose the parent-time transportation costs be divided as follows (Choose one):

☐ Utah Code 30-3-37(12) (You can find the Utah Code at [le.utah.gov/xcode/code.html](http://le.utah.gov/xcode/code.html). Print and attach a copy of the statute.)

☐ Other costs divided as follows (Attach additional pages if needed.):

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8. I propose the reimbursement of transportation costs be done as follows: (Choose one.)

☐ The parent who initially pays for reimbursable travel expenses will provide receipts to the other parent within 30 days. The parent who receives travel receipts will pay the other parent within 30 days.

☐ Other provisions regarding reimbursement as follows (Attach additional pages if needed.):

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I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

### Certificate of Service

I certify that I filed with the court and served a copy of this Notice of Relocation on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

**This is a private record**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Petitioner ☐ Respondent  
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Petitioner's Licensed Paralegal Practitioner  
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

	<b>Motion for Orders Regarding Relocation</b> (Utah Code 30-3-37)
<b>Hearing Requested</b>	
_____ Petitioner	_____ Case Number
V.	
_____ Respondent	_____ Judge
	_____ Commissioner (domestic cases)

1. **Notice of Relocation** (Choose one.)

- ☐ I have received the ☐ petitioner's ☐ respondent's Notice of Relocation. I request a hearing regarding the move (attach a copy of the Notice of Relocation).
- ☐ I have not received the other parent's Notice of Relocation, but have been told the other parent plans to move more than 150 miles from my residence. I request a hearing regarding the move.

2.     [ ]   I disagree with the other parent's plans to move with the child(ren), and I want the court to revisit custody because (Attach additional pages if needed.):

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I ask the court for the following custody order (Attach additional pages if needed.):

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3.     [ ]   I disagree with the other parent's proposed parent-time schedule because (Attach additional pages if needed.):

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I ask the court for the following parent-time schedule (Attach additional pages if needed.):

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4.     [ ]   I disagree with the other parent's proposed division of costs for parent-time transportation because (Attach additional pages if needed.):

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I ask the court for the following order dividing parent-time transportation costs (Attach additional pages if needed.):

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5.     [ ]   I disagree with the other parent's proposed reimbursement schedule for transportation costs because (attach additional pages if needed):

\_\_\_\_\_  
\_\_\_\_\_

I ask the court for the following order on the reimbursement schedule (attach additional pages if needed):

\_\_\_\_\_  
\_\_\_\_\_

6.     [   ]   I ask the court for the following additional orders regarding the move (attach additional pages if needed):

\_\_\_\_\_  
\_\_\_\_\_

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

**Notice to responding party**

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

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[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Finding help**

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**Aviso para el demandado (o acusado)**

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Cómo encontrar ayuda legal**

La página de la internet del tribunal Cómo encontrar ayuda legal

([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

### Certificate of Service

I certify that I filed with the court and served a copy of this Motion for Hearing Regarding Relocation on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

\_\_\_\_\_ Signature ► \_\_\_\_\_  
 Date \_\_\_\_\_  
 Printed Name \_\_\_\_\_

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

	<b>Findings of Fact, Conclusions of Law and Order on Motion for Orders Regarding Relocation</b>
Petitioner _____	_____
v. _____	Case Number _____
Respondent _____	Judge _____
	Commissioner _____

The matter before the court is ☐ petitioner's ☐ respondent's Motion for Orders Regarding Relocation.

This matter is being resolved by (Choose all that apply.):

- ☐ The default of ☐ petitioner ☐ respondent.
- ☐ The stipulation of the parties.
- ☐ The pleadings and other papers of the parties.
- ☐ A hearing held on \_\_\_\_\_ (date).

Petitioner

- ☐ was ☐ was not present.
- ☐ was represented by \_\_\_\_\_.
- ☐ was not represented.

Respondent

- ☐ was ☐ was not present.
- ☐ was represented by \_\_\_\_\_.
- ☐ was not represented.

Having considered the documents filed with the court, the evidence and the arguments, and now being fully informed,

**The court finds:**

1. Relocation findings (Choose one.):

☐ The custodial parent's move is in the best interests of the children.

☐ The custodial parent's move is not in the best interests of the children.

☐ The non-custodial parent is moving.

2. Other findings:

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**The court orders:**

3. (Choose one.)

☐ The decree or order dated \_\_\_\_\_ is unchanged.

☐ The decree or order dated \_\_\_\_\_ is changed only as indicated below. The rest of the decree or order is unchanged.

4. ☐ **Child custody**

Child custody is changed as follows:

Child's name	Month and year of birth	Physical custody to	Legal custody to
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal

		<input type="checkbox"/> Petitioner	<input type="checkbox"/> Petitioner
		<input type="checkbox"/> Respondent	<input type="checkbox"/> Respondent
		<input type="checkbox"/> Joint physical	<input type="checkbox"/> Joint legal

☐ Other custody arrangement (Describe in detail.):

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5. ☐ **Parent-time**

Parent-time is changed as follows (Choose one.):

☐ Statutory parent-time will be under Utah Code 30-3-37(6).

☐ Other parent-time schedule (Describe in detail.):

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6. ☐ **Parent-time transfers**

Parent-time transfers will be as follows (Choose one.):

☐ Transfer at **beginning** of parent-time with

☐ petitioner

☐ respondent

☐ other adult (Name) \_\_\_\_\_

transferring the children at this address:

---

and transfer at **end** of parent-time with

☐ petitioner

☐ respondent

☐ other adult (Name) \_\_\_\_\_

transferring the children at this address:

\_\_\_\_\_

☐ Curbside transfers (The parent/person picking up or dropping off the children does not leave the vehicle and the other parent/person does not leave the residence).

☐ Other transfer arrangements (Describe in detail.):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7. Division of costs to visit non-custodial parent**

Division of costs to visit non-custodial parent will be shared as follows:

☐ According to Utah Code 30-3-37(12).

☐ Other:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. Reimbursement schedule for costs to visit the non-custodial parent**

Reimbursement schedule for costs to visit the non-custodial parent is as follows:

☐ The parent who initially pays for reimbursable travel expenses will provide receipts to the other parent within 30 days. The parent who receives travel receipts will pay the other parent within 30 days.

☐ Other:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

_____	Signature ►	_____
Date	Commissioner	_____
_____	Signature ►	_____
Date	Judge	_____

Approved as to form.

_____	Signature ►	_____
Date	Plaintiff/Petitioner, Attorney or Licensed Paralegal Practitioner	_____
_____	Signature ►	_____
Date	Defendant/Respondent, Attorney or Licensed Paralegal Practitioner	_____

### Certificate of Service

I certify that I filed with the court and served a copy of this Findings of Fact, Conclusions of Law and order on Motion for Orders Regarding Relocation on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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

\_\_\_\_\_  
 Signature ►

\_\_\_\_\_  
 Printed Name

☐ This is a private record

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent  
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner  
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the ☐ District ☐ Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Petitioner

v.

\_\_\_\_\_  
Defendant/Respondent

**Motion to Vacate Dismissal and  
Reinstate Civil Case**

(Utah Rule of Judicial Administration 4-103 and  
Utah Rule of Civil Procedure 60(b)(1))

☐ **Hearing Requested**

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Commissioner (domestic cases)

1. I am the ☐ plaintiff/petitioner ☐ defendant/respondent in this case.
2. The court dismissed this case for:  
☐ lack of prosecution.  
☐ failure to serve within 120 days of filing.  
☐ failure to pay the filing fee.

☐ other (describe) \_\_\_\_\_

3. I ask the court to vacate the dismissal and reinstate the case based on mistake, inadvertence, surprise, or excusable neglect.

4. I ask for this order because:  
(Explain what happened to cause you to miss the deadline. Attach additional sheets if needed.  
Utah Rule of Civil Procedure 60(b)(1))

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5. I am making this motion within 90 days of the dismissal.

6. ☐ I request a hearing.

☐ I do not request a hearing.

7. ☐ I have attached the following documents in support of this motion:

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I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

\_\_\_\_\_  
Date

Signature ►

\_\_\_\_\_  
Printed Name

**Notice to responding party**

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Finding help**

The court's Finding Legal Help web page ([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

**Aviso para el demandado (o acusado)**

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

[www.utcourts.gov/howto/filing/motions](http://www.utcourts.gov/howto/filing/motions)

**Cómo encontrar ayuda legal**

La página de la internet del tribunal Cómo encontrar ayuda legal

([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

### Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Vacate Dismissal and Reinstate Civil Case on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

In the ☐ District ☐ Justice Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Petitioner

v.

\_\_\_\_\_  
Defendant/Respondent

**Order on Motion to Vacate Dismissal  
and Reinstate Civil Case**

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Commissioner

The matter before the court is ☐ plaintiff/petitioner's ☐ defendant/respondent's  
Motion to Vacate Dismissal and Reinstate Civil Case.

This matter is being resolved by (Choose all that apply.):

☐ The default of ☐ plaintiff/petitioner ☐ defendant/respondent.

☐ The stipulation of the parties.

☐ The pleadings and other papers of the parties.

☐ A hearing held on \_\_\_\_\_ (date).

Plaintiff/Petitioner

☐ was ☐ was not present.

☐ was represented by \_\_\_\_\_.

☐ was not represented.

Defendant/Respondent

☐ was ☐ was not present.

☐ was represented by \_\_\_\_\_.

☐ was not represented.

Having considered the documents filed with the court, the evidence and the arguments,  
and now being fully informed,

**The court finds:**

1. There is:  
[ ] not good cause to vacate the dismissal.  
[ ] good cause to vacate the dismissal.

**The court orders:**

2. The Motion to Vacate Dismissal and Reinstate Case is [ ] granted [ ] denied.
3. [ ] The  
[ ] plaintiff/petitioner  
[ ] defendant/respondent  
must do the following by \_\_\_\_\_ (date):

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Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

_____	Signature ►	_____
Date	Commissioner	_____
_____	Signature ►	_____
Date	Judge	_____

Approved as to form.

\_\_\_\_\_ Signature ► \_\_\_\_\_

Date

Plaintiff/Petitioner, Attorney or Licensed  
Paralegal Practitioner

\_\_\_\_\_

Signature ►

\_\_\_\_\_

Date

Defendant/Respondent, Attorney or Licensed  
Paralegal Practitioner

\_\_\_\_\_

### Certificate of Service

I certify that I filed with the court and served a copy of this Order on Motion to Vacate Dismissal and Reinstate Civil Case on the following people.

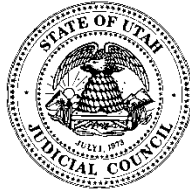
Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person 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"/> E-filed <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"/> E-filed <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.)		

Signature ►

Date

Printed Name

# Tab 10

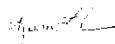


# Administrative Office of the Courts

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:** Management Committee / Judicial Council  
**From:** Keisa L. Williams   
**Date:** May 29, 2018  
**Re:** Disclaimer Language for Auto-Dialer

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In January 2018, the AOC began sending automated court reminder phone calls to defendants in criminal cases two (2) business days prior to each court date. These calls are made for both district and justice courts cases. The calls have already resulted in a reduction in failures to appear.

Below is the script for the recorded messages. You will notice that defendants are instructed to call the phone number provided at the end of the message if they have any questions. They are able to repeat the message as many times as they need, and a Spanish version is available.

### **Standard Script:**

Firstname Lastname case number ##### has a hearing scheduled on dayofweek, month dayofmonth at hearingtime in courtroom xxx. This hearing will be held at addressofcourt. If Firstname Lastname does not appear, an arrest warrant may be issued. If you have any questions please call ###-###-####.

The standard message may change slightly, as indicated below:

- 1) **Multiple hearings for the same person** (same hearing date, time, room, phone number and person name/SID, but different party name and case number). The "case number #####" in the base message changes to something like "case number #####, case number ##### and case number #####"

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.

- 2) **No courtroom** (a courtroom as not been assigned to the hearing).  
The phrase "in courtroom xxx" is omitted
- 3) **Court address.** The court name is not included in the message. The courtroom address is being pulled from the courtroom table. If a courtroom has not been assigned, or the courtroom table does not have an address for the room, then the court address is pulled from the profile table. So there might be a few inconsistencies there.

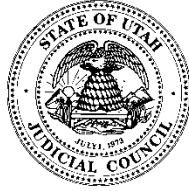
This script, along with guidance for attorneys on how to instruct their clients, was sent to the Utah Association of Criminal Defense Attorneys (UACDL).

As you can imagine, the problem has been capturing accurate phone numbers. In order to obtain current phone numbers, Kim Allard worked with the Clerks of Court and amended a form (already in use) to add phone numbers. Those forms are provided to defendants at Initial Appearance (or their first in-court appearance) and then collected by clerks and entered into our system.

Unfortunately, defendants have been using the calls (or lack of a call) as an excuse for failing to appear. Judges have asked that “disclaimer” language be added to all Hearing Notices to ensure defendants understand that the calls are a courtesy and do not excuse them from appearing in court. The proposed language is as follows:

“If you have a telephone number on file with the court, you may receive a reminder call. Not receiving a reminder call does not excuse you from your scheduled appearance. Failure to appear may result in the issuance of a warrant for your arrest. You remain solely responsible for appearing in court as ordered.”

The AOC is asking for approval by the Management Committee and/or Judicial Council of the addition of this language to Hearing Notices in criminal cases.



# 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:** Management Committee and Judicial Council  
**From:** Nancy Sylvester  
**Date:** June 4, 2018  
**Re:** CJA Rule 9-109: Second Comment Period Complete

---

The following rule has returned from [comment](#). It received one comment.

**CJA09-0109 Presiding judges.** New. Establishes the procedure for election, term of office, role, responsibilities, and authority of presiding judges, associate presiding judges, and education directors for justice courts. This rule is effective April 1, 2018 pursuant to UCJA Rule 2-205 and this is the second request for comment.

The comment from "David" said, "The heading at (3)(D) 'Outside agencies and the media,' includes the word media, despite there being nothing in the subsections that follow dealing with the media." I believe it was intended that the paragraph include media, so I amended the paragraph as follows:

(3)(D) Outside agencies and the media.

(3)(D)(i) The presiding judge shall be available to meet with [the media](#), outside agencies, such as prosecuting attorneys, city attorneys, county attorneys, public defenders or associations of defense counsel, sheriffs, police chiefs, bar association leaders, probation providers, government officials of cities or counties located within the district, civic organizations, and other state agencies.

This is a minor change so the rule should not need to go out for comment again. The Policy and Planning Committee recommends that the Council adopt the language above effective immediately. As a reminder, the Council expedited adoption of Rule 9-109 effective April 1, 2018, subject to an additional comment period.

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.

**Rule 9-109. Presiding judges.**

**Intent:**

To establish the procedure for election, term of office, role, responsibilities, and authority of presiding judges, associate presiding judges, and education directors for Justice Courts.

**Applicability:**

This rule shall apply to presiding judges, associate presiding judges, and education directors in the Justice Courts.

**Statement of the Rule:**

**(1) Election and term of office.**

(1)(A) Presiding judge.

(1)(A)(i) A presiding judge in each judicial district shall be elected by a majority vote of the active judges present at the district meetings held at the 2018 Justice Court Conference. Thereafter, regular elections shall take place at the annual conference in odd years for odd-numbered districts and in even years for even-numbered districts. In the event that a majority vote cannot be obtained, the presiding judge shall be determined by the Board of Justice Court Judges. Interim elections, if necessary, shall take place as provided in this rule. A presiding judge shall be an active judge, currently appointed to at least one court within the district. Senior judges are ineligible to hold or vote for the office of presiding judge.

(1)(A)(ii) The presiding judge's term of office shall be from the time of his or her election or appointment until he or she resigns or until the next regular election, whichever occurs first. A presiding judge may serve successive terms.

(1)(B) Associate presiding judge.

(1)(B)(i) The active judges of a district may, at their discretion, elect one judge of the district to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A). An associate presiding judge shall be an active judge, currently appointed to at least one court within the district. Senior judges are ineligible to hold or vote for the office of associate presiding judge.

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge.

(1)(C) District education director.

(1)(C)(i) The active judges of a district may, at their discretion, elect one judge of the district to the office of education director. An education director shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A). Senior judges are ineligible to vote for the office of district education director but may hold the office. If a district does not elect an education

36 director, the associate presiding judge, if there is one, shall serve as the education director. If the  
37 district elects neither an education director nor an associate presiding judge, the presiding judge shall  
38 serve as the education director.

39 (1)(C)(ii) The education director shall serve on the justice court education committee and shall  
40 work with the Education Department of the Administrative Office in developing, planning and  
41 presenting relevant judicial training at the district level.

42 (1)(D) Removal and Other Vacancies of Office.

43 (1)(D)(i) If the office of presiding judge becomes vacant, then the associate presiding judge shall  
44 serve the rest of the presiding judge's term. If there is no associate presiding judge, the district  
45 education director shall, if the education director is an active judge, serve the unexpired term.  
46 Otherwise, the Chair of the Board of Justice Court Judges shall appoint a judge to serve until the next  
47 district meeting.

48 (1)(D)(ii) A presiding judge may appoint, on an interim basis, an eligible judge of the district to fill  
49 an unexpired term of associate presiding judge or education director until the next district meeting. At  
50 the district meeting, the active judges present shall ratify the appointment by majority vote. If they do  
51 not ratify the appointment, or if the presiding judge does not make an interim appointment,  
52 nominations and an election shall then be held at that meeting to fill the unexpired term.

53 (1)(D)(iii) A presiding judge, associate presiding judge or education director may be removed from  
54 that office by a two-thirds vote of the active justice court judges in the district. A successor presiding  
55 judge shall, or an associate presiding judge or education director may, then be elected to fill the  
56 unexpired term of the vacant office.

57 (1)(D)(iv) In extraordinary circumstances, to preserve confidence in the fair administration of  
58 justice, the Presiding Officer of the Judicial Council may remove a judge from any office described in  
59 this rule. Vacancies shall be filled as provided in this rule.

60 **(2) District meetings.**

61 (2)(A) Each district shall have regular meetings to discuss and decide district business, receive  
62 training, or address issues and concerns specific to the district.

63 (2)(A)(i) The presiding judge shall call and preside over a meeting of other justice court judges in  
64 the district at the annual Justice Court Conference.

65 (2)(A)(ii) Each district shall have at least one other meeting during the calendar year in which a  
66 majority of active justice court judges is present, including the presiding judge or associate presiding  
67 judge.

68 (2)(B) In addition to regular meetings, the presiding judge or a majority of the active judges may call  
69 additional meetings as necessary.

70 (2)(C) An agenda shall be circulated among the judges in advance of any meeting with a known  
71 method on how matters may be placed on the agenda.

(2)(E) Other than judges and the Justice Court Administrator, attendance at district meetings shall be by invitation of the presiding judge only.

(2)(F) The issues on which judges vote shall be left to the sound discretion and judgment of each district and the applicable sections of the Utah Constitution, statutes, and this Code.

**(3) Administrative responsibilities and authority of presiding judge.**

(3)(A) Generally. The presiding judge is charged with the responsibility for the effective operation of the justice courts within a district. He or she is responsible for the implementation and enforcement of statutes, rules, policies, and directives of the Judicial Council and the Board of Justice Court Judges as they pertain to the administration of the courts. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(B) Coordination of required training.

(3)(B)(i) The presiding judge, associate presiding judge, or education director shall: (a) be responsible to see that judges in his or her district are appropriately trained, (b) assist in planning statewide trainings as part of the Education Committee, (c) plan district training to be held in connection with the meetings required by section (2), (d) recommend mentors for new judges, and (e) arrange for individual training, as needed.

(3)(B)(ii) Presiding judges are encouraged to observe the hearings of judges within the district to assess training needs.

(3)(C) Court committees. The presiding judge shall, where appropriate, make use of committees composed of other judges and court personnel to investigate problem areas and improve the administration of justice.

(3)(D) Outside agencies and the media.

(3)(D)(i) The presiding judge shall be available to meet with the media, outside agencies, such as prosecuting attorneys, city attorneys, county attorneys, public defenders or associations of defense counsel, sheriffs, police chiefs, bar association leaders, probation providers, government officials of cities or counties located within the district, civic organizations, and other state agencies.

(3)(D)(ii) The presiding judge shall be the primary judicial representative of the justice court judges in the district.

(3)(D)(iii) Nothing in this rule shall replace or interfere with the statutory and administrative responsibilities of an appointed judge to the appointing authority of a court.

(3)(E) Judicial officers. The presiding judge shall discuss significant concerns, problems or complaints regarding the judges in his or her district with the Justice Court Administrator, who shall work together to resolve the concern. In the event that another judge in the district fails to comply with a reasonable administrative directive of the presiding judge, interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment, or violates the Code of Judicial Conduct, the presiding judge may, depending on the severity of the issue and consistent with legal and ethical obligations:

109 (3)(E)(i) Consult with appropriate staff at the Administrative Office of the Courts and/or discuss  
110 the issue with other presiding judges;

111 (3)(E)(ii) Meet with the judge to explain the reasons for the directive given or the position taken,  
112 consult with the judge about alternative solutions and reevaluate the directive or position, as  
113 appropriate;

114 (3)(E)(iii) Present the problem to the Board of Justice Court Judges for input;

115 (3)(E)(iv) Require the judge to participate in appropriate counseling, therapy, education or  
116 treatment; or

117 (3)(E)(v) Refer the problem to the Judicial Council, the Chief Justice, or the Judicial Conduct  
118 Commission, as appropriate.

119 (3)(F) Liaison. The presiding judge or his or her designee shall serve as a liaison between the justice  
120 courts of the district and (i) the Board of Justice Court Judges and (ii) the presiding judges of Juvenile  
121 Court and District Court.

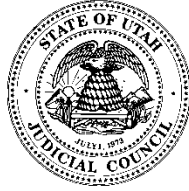
122 (3)(G) Reassignment.

123 (3)(G)(i) In the event that a motion to disqualify a judge or judges is filed and no appointed judge  
124 of the court is available or empowered to hear the motion, the presiding judge shall consider the  
125 motion and, if necessary, assign any judge duly appointed pursuant to Utah Code section 78A-7-208  
126 to serve as a temporary justice court judge.

127 (3)(G)(ii) In the event that all of the appointed judges of a court recuse themselves from a matter,  
128 the presiding judge shall assign any judge duly appointed pursuant to Utah Code section 78A-7-208  
129 to serve as a temporary justice court judge.

130 (3)(H) Compliance with standards. The presiding judge shall monitor and ensure that judges are  
131 complying with performance standards established by the Council or as otherwise required by law.

132 (3)(I) Performance evaluations. Pursuant to Utah Code 78A-12-203, the presiding judge shall receive  
133 the midterm reports prepared by the Judicial Performance Evaluation Commission for the other justice  
134 court judges in his or her district. The presiding judge shall consult with the evaluated judge and the  
135 Justice Court Administrator to develop a plan for addressing the issues resulting in less than satisfactory  
136 scores.



# 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:** Management Committee and Judicial Council  
**From:** Nancy Sylvester  
**Date:** June 4, 2018  
**Re:** Final Action: CJA Rule 3-111. Performance evaluation of senior judges and court commissioners

---

CJA Rule 3-111 is back from comment. The rule received one comment from Senior Judge Gordon Low, who said he had no criticism of the proposals. Policy and Planning recommends that the Council adopt the rule as amended.

**CJA03-0111. Performance evaluation of senior judges and court commissioners.** Amend. 1) Clarifies when court commissioners' annual evaluations will be completed, by whom, and what the evaluation process will entail; 2) establishes when the presiding judge will prepare a performance plan versus a corrective action plan for a court commissioner; 3) moves the Judicial Council's certification process from August to July; and 4) replaces the active senior judge performance evaluation process in paragraph (1) with a new process in paragraph (3)(B). Amended (3)(B) provides that the surveys the Judicial Council collects from the trial court executives, the Court of Appeals Clerk of Court, the Justice Court Administrator, and the presiding judges on an active senior judge's performance will be informed by anonymous questionnaires completed each time the senior judge completes an assignment. In the trial courts, court staff and jurors will complete the questionnaires, and in the Court of Appeals, the other judges on the panel to which the senior judge is assigned and the law clerks with whom the senior judge works will complete the questionnaires. *This is the second request for comment due to the addition of the fourth category of amendments.*

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.

Rule 3-111 circulated for comment once before, but in the course of reviewing the rule afterward, Policy and Planning determined that it should be held back from final action. The reason for this is that during the Council's discussions last fall regarding certification of senior judges for retention, it was discovered that presiding judges and trial court executives have had no meaningful information upon which to evaluate the senior judges accepting assignments in their districts. As such, Policy and Planning amended paragraph (3)(B) to provide a process by which jurors and staff could provide input, specifically through the use of questionnaires on non-legal ability. These questionnaires would inform the presiding judges' and TCEs' responses to the surveys they are provided. In essence, the PJ and TCE survey responses that are provided to the Council prior to a senior judge's certification would be a distillation of the questionnaires. And because the questionnaires would provide ongoing feedback, any issues that arise during the course of a senior judge's term of office could be addressed early on, rather than at the end. Attorney feedback would then provide the Council with information on the judge's legal ability.

The questionnaire process will replace the senior judge performance evaluation process in paragraph (1). The performance evaluation process has not been a meaningful method of evaluating senior judges. Since paragraph (1)'s enactment several years ago, no district has evaluated a senior judge. There are at least a couple reasons for this. Senior judges can travel throughout the state, so they do not have a single district to call home that will take "ownership" of them. And because of that, no district is tracking when the senior judge is in their second or greater term, or when they are eighteen months into that term. So the Policy and Planning Committee recommended eliminating that process in favor of the ongoing questionnaires during senior judges' assignments.

This idea came from the senior judges and PJ's and is supported by the TCE's. It is a modified version of the process JPEC already uses to evaluate justice court judges in the smallest courts. Attached are clean and redlined versions of Rule 3-111.

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

**Intent:**

To establish a performance evaluation, including the criteria upon which active 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 active 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 June 1 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 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) Active 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. An active senior judge's performance shall be evaluated by attorneys as provided in paragraph (3)(A) and by presiding judges and court staff as provided in paragraph (3)(B).~~

~~(1)(C) 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) 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)(F) 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) 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 active senior judge or court commissioner during the period for which the active 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 active 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) **Non-attorney Surveys.**

(3)(B)(i) **Surveys of presiding judges and court staff regarding non-appellate senior judges.**  
The Council shall measure performance of active senior judges by a survey of all presiding judges and trial court executives, or in the justice courts, the Justice Court Administrator, of districts in which the senior judge has been assigned. The presiding judge and trial court executive will gather information for the survey from anonymous questionnaires completed by court staff on the calendars to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned.  
The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). 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 qualitative assessment of the senior judge's judge indicates satisfactory performances ~~survey scores are satisfactory.~~

(3)(B)(ii) **Surveys of Court of Appeals presiding judge and clerk of court.** The Council shall measure performance of active appellate senior judges by a survey of the presiding judge and clerk of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the survey from anonymous questionnaires completed by the other judges on each panel to which the appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

**(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 challenging a non-certification decision 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.

227 | ~~(45)~~(l) **Communication of certification decision.** The Judicial Council shall communicate its  
228 certification decision to the senior judge or court commissioner. The Judicial Council shall communicate  
229 its certification decision for senior judges to the Supreme Court and for court commissioners to the  
230 presiding judge of the district the commissioner serves.

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

**Intent:**

To establish a performance evaluation, including the criteria upon which active 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 active 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 June 1 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 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) Active senior judges.** An active senior judge's performance shall be evaluated by attorneys as provided in paragraph (3)(A) and by presiding judges and court staff as provided in paragraph (3)(B).

**(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;

- 33 (2)(B) attentiveness to factual and legal issues before the court;
- 34 (2)(C) adherence to precedent and ability to clearly explain departures from precedent;
- 35 (2)(D) grasp of the practical impact on the parties of the commissioner's or senior judge's rulings,
- 36 including the effect of delay and increased litigation expense;
- 37 (2)(E) ability to write clear judicial opinions;
- 38 (2)(F) ability to clearly explain the legal basis for judicial opinions;
- 39 (2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's or
- 40 senior judge's court;
- 41 (2)(H) maintenance of decorum in the courtroom;
- 42 (2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and
- 43 confidence in the judicial system;
- 44 (2)(J) preparation for hearings or oral argument;
- 45 (2)(K) avoidance of impropriety or the appearance of impropriety;
- 46 (2)(L) display of fairness and impartiality toward all parties;
- 47 (2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court
- 48 procedures, and decisions;
- 49 (2)(N) management of workload;
- 50 (2)(O) willingness to share proportionally the workload within the court or district, or regularly
- 51 accepting assignments;
- 52 (2)(P) issuance of opinions and orders without unnecessary delay; and
- 53 (2)(Q) ability and willingness to use the court's case management systems in all cases.

54 **(3) Standards of performance.**

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

56 (3)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys

57 appearing before the active senior judge or court commissioner during the period for which the active

58 senior judge or court commissioner is being evaluated. The Council shall measure satisfactory

59 performance based on the results of the final survey conducted during a court commissioner's term of

60 office, subject to the discretion of a court commissioner serving an abbreviated initial term not to

61 participate in a second survey under Section (3)(A)(vi) of this rule.

62 (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 active 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) **Non-attorney surveys.**

(3)(B)(i) **Surveys of presiding judges and court staff regarding non-appellate senior judges.**

The Council shall measure performance of active senior judges by a survey of all presiding judges and trial court executives, or in the justice courts, the Justice Court Administrator, of districts in which the senior judge has been assigned. The presiding judge and trial court executive will gather information for the survey from anonymous questionnaires completed by court staff on the calendars to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

(3)(B)(ii) **Surveys of Court of Appeals presiding judge and clerk of court.** The Council shall measure performance of active appellate senior judges by a survey of the presiding judge and clerk of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the survey from anonymous questionnaires completed by the other judges on each panel to which the appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

(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.

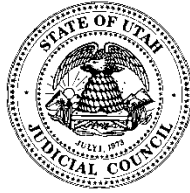
(4)(F) **August Council meeting.** At the request of the Council the senior judge or court commissioner challenging a non-certification decision shall meet with the Council in August. At the request of the

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.

(4)(G) **August Council meeting closed session.** At its 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.

(4)(H) **Final certification decision.** At its 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.

(4)(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.



# 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:** Management Committee / Judicial Council  
**From:** Keisa L. Williams   
**Date:** May 25, 2018  
**Re:** Rules for Final Approval

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The public comment period for Rules 3-407, 4-202.02, 4-202.07, 4-202.09, and 4-510.03 of the Utah Code of Judicial Administration has now closed. The proposal to 4-202.02 received one public comment as outlined below. Policy and Planning Committee considered the comment and determined that no amendments to the rule should be made.

**CJA03-0407. Accounting. Amend.** Amends the membership of the Accounting Manual Review Committee to reflect current practice.

**CJA04-0202.02. Records Classification. Amend.** Allows a minor's full name to be listed on any type of protective order, rather than initials only on adult protective orders and a full name on child protective orders. Classifies affidavits of indigency as private record.

David Reay: In the interest of protecting minors, I oppose this rule change. If there is a need to disclose the name of the minor, other avenues should be explored. It is unfair for a victim, particularly a minor, to have their name published on a public document.

It seems that the subject of the protective order would know the minor, and if said subject or any other requires the full name of the minor there should be a special request form where the request can be made. This request form should require the party requesting the minor's name to disclose their own identity and purpose of requesting the name.

**CJA04-0202.07.Appeals. Amend.** Clarifies that a person may appeal a response that a record does not exist or is not maintained by the court and amends the timing for filing and responding to an appeal.

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.

**CJA04-0202.09.Miscellaneous. Amend.** Strikes language requiring filers to certify that all non-public information has been omitted or redacted from public records.

**CJA04-0510.03.Qualification of ADR Providers. Amend.** Updates the language of the rule to reflect the broadened scope of the new ADR ethics exam.

Following discussion, the Policy and Planning Committee voted to recommend that the Judicial Council adopt these rules. If the Council adopts them, the rules will be effective November 1, 2018.

Encl. CJA 3-407  
CJA 4-202.02  
CJA 4-202.07  
CJA 4-202.09  
CJA 4-510.03

**Rule 3-407. Accounting.****Intent:**

To establish uniform procedures for the processing, tracking, and reporting of accounts receivable and trust accounts.

**Applicability:**

This rule applies to the judiciary.

**Statement of the Rule:**

(1) Manual of procedures.

(1)(A) The administrative office shall develop a manual of procedures to govern accounts receivable, accounts payable, trust accounts, the audit thereof, and the audit of administrative procedures generally. The procedures shall be in conformity with generally accepted principles of budgeting and accounting and shall, at a minimum, conform to the requirements of this Code and state law. Unless otherwise directed by the Judicial Council, the manual of procedures and amendments to it shall be approved by the majority vote of the state court administrator, the court administrators for each court of record, and the finance manager.

(1)(B) There is established an accounting manual review committee responsible for making and reviewing proposals for repealing accounting policies and procedures and proposals for promulgating new and amended accounting policies and procedures. The committee shall consist of the following minimum membership:

(1)(B)(i) ~~the finance manager and the budget manager~~ director of the finance department, who shall serve as ~~co-chairs~~ chair and shall vote only in the event of a tie;

(1)(B)(ii) four support services coordinators who will serve a three year term, and may repeat;

(1)(B)(iii) two accountants or clerks with accounting responsibilities from each of the trial courts of record who will serve a three year term, and may repeat;

(1)(B)(iv) a trial court executive who will serve a three year term;

(1)(B)(v) a clerk of court who will serve a three year term;

(1)(B)(vi) a clerk with accounting responsibilities from an appellate court who will serve a three year term, and may repeat;

(1)(B)(vii) one court services field specialist, who has an indefinite term;

(1)(B)(viii) the audit director or designee, who shall not vote; and

(1)(B)(ix) the director of the state division of finance or designee, who shall not vote.

(1)(C) Unless designated by office, members of the committee shall be appointed by the state court administrator. The department of finance shall provide necessary support to the committee.

(1)(D) New and amended policies and procedures recommended by the committee shall be reviewed by the court executives prior to being submitted to the Judicial Council or to the vote of the administrators and the finance manager. The Court Executives may endorse or amend the draft policies and procedures or return the draft policies and procedures to the committee for further consideration.

38 (2) Revenue accounts.

39 (2)(A) Deposits; transfers; withdrawals. All courts shall deposit with a depository determined qualified by  
40 the administrative office or make deposits directly with the Utah State Treasurer or the treasurer of the  
41 appropriate local government entity. The Supreme Court, Court of Appeals, State Law Library,  
42 administrative office, district court primary locations and juvenile courts shall deposit daily, whenever  
43 practicable, but not less than once every three days. The deposit shall consist of all court collections of  
44 state money. District court contract sites and justice courts having funds due to the state or any political  
45 subdivision of the state shall, on or before the 10th day of each month, deposit all funds received by  
46 them in the preceding month in a qualified depository with the appropriate public treasurer. The courts  
47 shall make no withdrawals from depository accounts.

48 (2)(B) Periodic revenue report. Under the supervision of the court executive, the clerk of the court shall  
49 prepare and submit a revenue report that identifies the amount and source of the funds received during  
50 the reporting period and the state or local government entity entitled to the funds. Juvenile courts and  
51 primary locations of the district courts shall submit the report weekly to the administrative office. District  
52 court contract sites shall submit the report at least monthly, together with a check for the state portion of  
53 revenue, to the administrative office. Justice courts shall submit the report monthly, together with a check  
54 for the state revenue collected, to the Utah State Treasurer.

55 (2)(C) Monthly reconciliation of bank statement. The administrative office shall reconcile the revenue  
56 account upon receipt of the weekly revenue report from the courts and the monthly bank statements.

57 (3) Trust accounts.

58 (3)(A) Definition. Trust accounts are accounts established by the courts for the benefit of third parties.  
59 Examples of funds which are held in trust accounts include restitution, child support, and bail amounts.

60 (3)(B) Accounts required; duties of a fiduciary. District court primary locations and juvenile courts shall  
61 maintain a trust account in which to deposit monies held in trust for the benefit of the trustor or some  
62 other beneficiary. Under supervision of the court executive, the clerk of the court shall be the custodian of  
63 the account and shall have the duties of a trustee as established by law. All other courts of record and not  
64 of record may maintain a trust account in accordance with the provisions of this rule.

65 (3)(C) Monthly reconciliation of bank statement. Each court shall reconcile its ledgers upon receipt of the  
66 monthly bank statement and submit the reconciliation to the administrative office.

67 (3)(D) Accounting to trustor. The courts shall establish a method of accounting that will trace the debits  
68 and credits attributable to each trustor.

69 (3)(E) Bail forfeitures; other withdrawals. Transfers from trust accounts to a revenue account may be  
70 made upon an order of forfeiture of bail or other order of the court. Other withdrawals from trust accounts  
71 shall be made upon the order of the court after a finding of entitlement.

72 (3)(F) Interest bearing. All trust accounts shall be interest bearing. The disposition of interest shall be  
73 governed by Rule 4-301.

- 74 (4) Compliance. The administrative office and the courts shall comply with state law and the manual of  
75 procedures adopted by the administrative office.

**Rule 4-202.02. Records classification.**

**Intent:**

To classify court records as public or non-public.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:**

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) case number;

(2)(L)(iv) case status;

(2)(L)(v) civil case type or criminal violation;

(2)(L)(vi) civil judgment or criminal disposition;

(2)(L)(vii) daily calendar;

(2)(L)(viii) file date;

(2)(L)(ix) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(Q) name, business address, and business telephone number of judges;

(2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(U) order or decision classifying a record as not public;

(2)(V) private record if the subject of the record has given written permission to make the record public;

(2)(W) probation progress/violation reports;

(2)(X) publications of the administrative office of the courts;

(2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(Z) record of the receipt or expenditure of public funds;

(2)(AA) record or minutes of an open meeting or hearing and the transcript of them;

(2)(BB) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(CC) record of a request for a record;

(2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(EE) rules of the Supreme Court and Judicial Council;

(2)(FF) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

(2)(GG) statistical data derived from public and non-public records but that disclose only public data;

(2)(HH) Notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the

delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

(3) **Sealed Court Records.** The following court records are sealed:

(3)(A) records in the following actions:

(3)(A)(i) Title 78B, Chapter 6, Part 1, Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(ii) Title 78B, Chapter 15, Part 8, Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed; -

(3)(A)(iii) Section 76-7-304.5, Consent required for abortions performed on minors; and

(3)(A)(iv) Section 78B-8-402, actions for disease testing;

(3)(B) expunged records;

(3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;

(3)(D) records showing the identity of a confidential informant;

(3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;

(3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

(3)(G) records designated as sealed by rule of the Supreme Court;

(3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; and

(3)(I) other records as ordered by the court under Rule 4-202.04.

(4) **Private Court Records.** The following court records are private:

(4)(A) records in the following actions:

(4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;

(4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed; and

(4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed;

and

(4)(B) records in the following actions, except that the case history; judgments, orders and decrees; letters of appointment; and the record of public hearings are public records:

(4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;

(4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;

(4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;

(4)(B)(iv) Title 78B, Chapter 7, Protective Orders;

(4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;  
(4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;  
(4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;  
(4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and  
(4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);

(4)(C) affidavit of indigency;  
~~(4)(C)(D)~~ an affidavit supporting a motion to waive fees;  
~~(4)(D)(E)~~ aggregate records other than public aggregate records under subsection (2);  
~~(4)(E)(F)~~ alternative dispute resolution records;  
~~(4)(F)(G)~~ applications for accommodation under the Americans with Disabilities Act;  
~~(4)(G)(H)~~ jail booking sheets;  
~~(4)(H)(I)~~ citation, but an abstract of a citation that redacts all non-public information is public;  
~~(4)(I)(J)~~ judgment information statement;  
~~(4)(J)(K)~~ judicial review of final agency action under Utah Code Section 62A-4a-1009;  
~~(4)(K)(L)~~ the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;  
(4)(L)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information;  
(4)(M)(N) medical, psychiatric, or psychological records;  
(4)(N)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:  
(4)(N)(O)(i) name change of a minor;  
(4)(N)(O)(ii) guardianship or conservatorship for a minor;  
(4)(N)(O)(iii) felony, misdemeanor, or infraction;  
(4)(N)(O)(iv) child protective orders; and  
(4)(N)(O)(v) custody orders and decrees;  
(4)(O)(P) nonresident violator notice of noncompliance;  
(4)(P)(Q) personnel file of a current or former court personnel or applicant for employment;  
(4)(Q)(R) photograph, film, or video of a crime victim;  
(4)(R)(S) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:

(4)(~~R~~)(~~S~~)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(~~R~~)(~~S~~)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(~~S~~)(~~T~~) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

(4)(~~T~~)(~~U~~) record submitted for in camera review until its public availability is determined;

(4)(~~U~~)(~~V~~) reports of investigations by Child Protective Services;

(4)(~~V~~)(~~W~~) victim impact statements;

(4)(~~W~~)(~~X~~) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;

(4)(~~X~~)(~~Y~~) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;

(4)(~~Y~~)(~~Z~~) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure; and

(4)(~~Z~~)(~~AA~~) other records as ordered by the court under Rule 4-202.04.

**(5) Protected Court Records.** The following court records are protected:

(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;

(5)(B) records that are subject to the attorney client privilege;

(5)(C) bids or proposals until the deadline for submitting them has closed;

(5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;

(5)(F) court security plans;

(5)(G) investigation and analysis of loss covered by the risk management fund;

(5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;

(5)(I) confidential business records under Utah Code Section 63G-2-309;

(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:

(5)(J)(i) interfere with an investigation;

(5)(J)(ii) interfere with a fair hearing or trial;

(5)(J)(iii) disclose the identity of a confidential source; or

- (5)(J)(iv) concern the security of a court facility;
- (5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;
- (5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;
- (5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;
- (5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;
- (5)(O) record the disclosure of which would jeopardize life, safety, or property;
- (5)(P) strategy about collective bargaining or pending litigation;
- (5)(Q) test questions and answers;
- (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- (5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;
- (5)(T) presentence investigation report;
- (5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and
- (5)(V) other records as ordered by the court under Rule 4-202.04.
- (6) Juvenile Court Social Records.** The following are juvenile court social records:
- (6)(A) correspondence relating to juvenile social records;
- (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;
- (6)(C) medical, psychological, psychiatric evaluations;
- (6)(D) pre-disposition and social summary reports;
- (6)(E) probation agency and institutional reports or evaluations;
- (6)(F) referral reports;
- (6)(G) report of preliminary inquiries; and
- (6)(H) treatment or service plans.
- (7) Juvenile Court Legal Records.** The following are juvenile court legal records:
- (7)(A) accounting records;
- (7)(B) discovery filed with the court;
- (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;
- (7)(D) name of a party or minor;
- (7)(E) record of a court hearing;

222 (7)(F) referral and offense histories

223 (7)(G) and any other juvenile court record regarding a minor that is not designated as a social  
224 record.

225 (8) **Safeguarded Court Records.** The following court records are safeguarded:

226 (8)(A) upon request, location information, contact information, and identity information other than  
227 name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a,  
228 Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;

229 (8)(B) upon request, location information, contact information and identity information other than  
230 name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party  
231 or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform  
232 Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family  
233 Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

234 (8)(C) location information, contact information, and identity information of prospective jurors on  
235 the master jury list or the qualified jury list;

236 (8)(D) location information, contact information, and identity information other than name of a  
237 prospective juror summoned to attend court;

238 (8)(E) the following information about a victim or witness of a crime:

239 (8)(E)(i) business and personal address, email address, telephone number, and similar  
240 information from which the person can be located or contacted;

241 (8)(E)(ii) date of birth, driver's license number, social security number, account description  
242 and number, password, identification number, maiden name, mother's maiden name, and similar  
243 personal identifying information.  
244

**Rule 4-202.07. Appeals.****Intent:**

To establish the rights and procedures in an appeal of a record request.

**Applicability:**

This rule applies to requests to access or to classify a court record other than a motion under Rule 4-202.04.

**Statement of the Rule:**

(1) A person requesting access to a court record may appeal a denial of the request, a response that the record does not exist or is not maintained by the court, a claim of extraordinary circumstances or the time claimed necessary to address the extraordinary circumstances. A person requesting that a court record be classified as private or protected may appeal a denial of the request. A person whose interests are protected by closure may appeal a decision to permit access to a court record. An appeal shall be made in writing within ~~30~~28 days after the decision giving rise to the appeal. A person described in this subsection may petition for judicial review as provided by statute.

(2) If the original request was to the custodian of the record, the appeal is to the state court administrator. If the original request was to the state court administrator, the appeal is to the Management Committee of the Judicial Council. The appeal of a decision by the state court administrator is to the Management Committee.

(3) The notice of appeal shall contain the appellant's name, mailing address, daytime telephone number, the relief sought, and a statement of facts, authority and argument in support of the appeal.

(4) An appeal to the state court administrator is deemed denied unless a decision on the appeal is mailed within ~~5~~ 14 days after receiving the appeal or within ~~15 business~~21 days after mailing notice under Rule 4-202.05(2)(B). An appeal to the Management Committee is deemed denied unless a decision on the appeal is mailed within ~~5~~14 days after the first meeting of the Committee held more ~~that than~~ 15-  
~~business~~21 days after receiving the appeal.

(5) The state court administrator shall mail notice of the Management Committee meeting to all participants at least ~~10 business~~14 days before the meeting. At least ~~7 business~~ days before the meeting, all participants shall mail to the state court administrator and to the other participants a written statement of facts, authority and argument in support of or opposition to the appeal. The Management Committee may permit any person whose interests are substantially affected by a decision to participate. The deliberations of the Management Committee are closed, but the balance of the hearing on the appeal is an open and public meeting of which notice will be given in accordance with Rule 2-103.

(6) The Management Committee shall allow the participants a reasonable opportunity to present facts, authority and argument in support of or opposition to the appeal. The order of presentation shall be decided by the Management Committee. The Management Committee may review the record in a closed meeting. Discovery is prohibited, but the Management Committee may compel the production of evidence.

(7) The state court administrator shall mail the decision on an appeal to all participants. The decision shall:

- (7)(A) describe the record or portions of the record to which access is denied in a manner that does not disclose information other than public information;
- (7)(B) refer to the authority under which the request is being denied;
- (7)(C) make findings and conclusions about specific records;
- (7)(D) identify and balance the interests favoring opening and closing the record; and, if the record is closed, determine there are no reasonable alternatives to closure sufficient to protect the interests favoring closure;
- (7)(E) state that the requester may appeal or seek judicial review; and
- (7)(F) state the time limits for filing an appeal or petition for judicial review, and the name and address of the person to whom the appeal or petition must be directed.

(8) The time periods in this rule may be extended by mutual agreement. A document required to be sent by mail may be sent by email, fax or hand-delivery. The duties of the state court administrator may be delegated.

**Rule 4-202.09. Miscellaneous.**

**Intent:**

To set forth miscellaneous provisions for these rules.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:**

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

(6) If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(7) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(8) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(9)(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information. ~~The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record.~~ The person filing a private,

protected, sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

(9)(B) A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.

(9)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(9)(C)(i) social security number: last four digits;

(9)(C)(ii) financial or other account number: last four digits;

(9)(C)(iii) driver's license number: state of issuance and last four digits;

(9)(C)(iv) address of a non-party: city, state and zip code;

(9)(C)(v) email address or phone number of a non-party: omit; and

(9)(C)(vi) minor's name: initials.

(9)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

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

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

**Applicability:**

This rule applies in the district court.

**Statement of the Rule:**

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

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

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

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

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

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

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

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

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

(2) To be included on the roster as a mediator:

(2)(A) all new applicants to the court roster must also have successfully completed at least 40 hours of court-approved basic formal mediation training in the last three years. This training shall be under a single training course from a single, court-approved training provider. The applicant must also complete 10 hours of experience in observing a court qualified mediator conduct mediation, and 10 hours in either conducting mediations singly or co-mediating with a court qualified mediator, or meet such other education, training and experience requirements as the Council finds will promote the effective administration of the ADR program;

(2)(B) successfully pass an examination on the ~~Code of Ethics for ADR providers~~ ethical requirements for mediators on the Utah Court Roster;

(2)(C) agree to conduct at least three pro bono mediations each year as referred by the Director; and

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

(3) To be included on the court roster for qualified divorce mediators:

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

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

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

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

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

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

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

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

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

(6)(C) agree to conduct at least one pro bono arbitration each year as referred by the Director.

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

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

(9) A provider may be sanctioned for failure to comply with the code of ethics for ADR providers as adopted by the Supreme Court or for failure to meet the requirements of this rule or state statute. The committee shall inform the public of public sanctions against a provider promptly after imposing the sanction.

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

a written warning and requirement to attend additional training;

(9)(A)(i) require the mediator to allow the Director or designee to observe a set number of mediation sessions conducted by the mediator;

(9)(A)(ii) suspension for a period of time from the court roster; and

(9)(A)(iii) removal from the court roster.

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

(9)(B)(i) admonition;

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

(10) The committee shall approve and publish procedures consistent with this rule to be used in imposing the sanction. The complainant shall file a written and signed complaint with the director. The director shall notify the provider in writing of the complaint and provide an opportunity to respond. The director may interview the complainant, the provider and any parties involved. Upon consideration of all factors, the director may impose a sanction and notify the complainant and the provider. If the provider seeks to challenge the sanction, the provider must notify the director within 10 days of receipt of the notification. The provider may request reconsideration by the director or a hearing by the Judicial Council's ad hoc committee on ADR. The decision of the committee is final.

# Tab 11





## Administrative Office of the Courts

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

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

TO: Members of the Judicial Council Management Committee

FROM: Dawn Marie Rubio, J.D.  
Utah Juvenile Court Administrator  
Commissioner, Interstate Compact for Juveniles

DATE: June 12, 2018

RE: Proposed Probation Policies Review and Approval

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The Board of Juvenile Court Judges, Juvenile Trial Court Executives, Statewide Chiefs of Probation, and the Probation Policy Workgroup vetted the following policies which are now advanced to the Management Committee for review and consideration.

***Section 2.10, Juvenile Court Fines and Service Hours [f/k/a Fine/Bail Forfeiture Schedule, Recommendation to Approve]*** — Effective July 1, 2018, HB239 directs that fines are assessed by episode rather than by incident ["charge"]. Further, maximum fines per episode are now determined by the minor's age at adjudication: up to \$180 if under 16; and up to \$270 if 16 or older. There are no objective criteria in HB 239 to vary the fine amounts, other than the age-based maximums. For those reasons and to assure statewide consistency, probation officers will recommend the maximum amount. Judges can then make the determination as to lowering fine amounts or converting to compensatory hours, and prosecutors and defense attorneys may weigh in on those matters during the disposition hearing.

***Section 2.15, Delinquency Drug Courts [Recommendation to Delete]*** — The recommendation to delete this policy is based upon the premise that a separate policy is unnecessary. First, Probation *Case Planning Principles* are designed to be more universally applicable than in the past. Second, districts operating delinquency drug courts [or other problem-solving courts] are best able to develop specialized local protocols with partner agencies, and it is likely that those local protocols will vary from district to district.

Additionally, I request that the Management Committee place these policies on the Judicial Council's June 25, 2018 Consent Agenda for final disposition.

I will be available to respond to questions during your meeting on June 12, 2018. Thank you.

cc: Honorable Jim Michie, Chair-Board of Juvenile Court Judges

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.

# ATTACHMENTS

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# Utah State Courts

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## Section 2.10 Fine/Bail-Forfeiture Schedule

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### Policy:

The probation department shall refer to the Juvenile Court Fine & Bail Schedule when making recommendation to the Court.

### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

### Authority:

- [UCA 76-3-301.5\(4\)](#)
- [UCA 78A-6-117\(2\)\(i\)](#)
- [UCA 78A-2-601](#)
- [Juvenile Court Fine and Bail Schedule](#)
- Juvenile Sentencing Guidelines Manual
- Utah State Juvenile Court Restorative Justice Manual

### Procedure:

1. The probation officer shall use the Juvenile Court Fine Schedule when making recommendations to the Court.
2. The standard fine should be recommended. Fines may be increased or reduced depending upon aggravating or mitigating factors as defined by the Juvenile Sentencing Guidelines.
3. All fines recommended shall fall within the minimum and maximum fine schedule.
4. When recommending community service hours in lieu of fines, the number of hours recommended should be converted from the Juvenile Court Fine Schedule at the current conversion rate.

History: Effective March 1, 2001 - Revised 11-09-2012

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### Addendum 2.10.1 Utah Fine Bail Schedule

- [Utah Uniform Fine and Bail Schedule](#)

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## Section 2.10 Juvenile Court Fines & Service Hours

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### Policy:

This policy provides direction for recommending fines and service hours at dispositional hearings.

### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

### Authority:

UCA 78A-6-117

### Procedure:

1. The probation officer shall recommend fines based upon each adjudicated episode.
  - 1.1. For minors under age 16 at adjudication the fine is \$180.00 (may be converted to 24 hours of service by the Court).
  - 1.2. For minors 16 years of age and older the fine is \$270.00 (may be converted to 36 hours of service by the Court).
2. The probation officer may recommend an additional five to ten community service hours for each adjudicated episode.
  - 2.1. The recommended community service amount for a misdemeanor episode is five hours.
  - 2.2. The recommended community service amount for a felony episode is ten hours.

### History:

Policy Group 5/1/2018

Probation Chiefs 5/9/2018

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## Section 2.15 Delinquency Drug Court

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#### Policy:

This policy is to establish guidelines for the operation of delinquency drug courts which may be used as an alternative for non-violent drug offenders.

#### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

#### Authority:

[UCA 78A-6-103](#)[UCA 78A-6-603](#)

Title 58, Chapter 37, Utah Controlled Substances Act

[Utah State Juvenile Court Drug Testing Policies and Procedures](#)

#### Procedure:

1. The delinquency drug court should provide a method of early intervention and intensive accountability of the minor.
2. Guidelines for qualification into the program should include, but not be limited to the following:
  - o 2.1 The current referral is drug or alcohol related.
  - o 2.2 The minor and parents voluntarily agree to participate in the program.
  - o 2.3 The minor admits to the offense(s).
    - 2.3.1 The minor enters a plea in abeyance agreement with the prosecuting attorney's office.
  - o 2.4 Completion of a drug/alcohol assessment which indicates a need for treatment.
3. Successful participation in drug court should include the following participatory elements:
  - o 3.1 Regular in court reviews to report:
    - 3.1.1 Results of drug testing.
    - 3.1.2 Treatment Progress.
  - o 3.2 Work toward completing a specified number of court ordered community service hours.
  - o 3.3 Attendance at all required treatment appointments
  - o 3.4 Random drug testing
  - o 3.5 Attendance in an educational or vocational program, or be gainfully employed.
4. A hierarchy of sanctions should be established by each drug court and used as guidelines in cases of non compliance.
  - o 4.1 Costs for confirmation drug tests may be charged to the participant. Should the test be confirmed negative, the cost of the test will be paid by the Juvenile Court.
5. A list of incentives should be established to provide motivation for continued compliance with the delinquency drug court program.
6. Upon acceptance into the program, delinquency drug courts may order a nominal fee to help defray the cost of random drug testing.
7. Upon successful completion of the delinquency drug court, the originating charge(s) is(are) dismissed.

History: Effective August 1, 2001

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