

JUDICIAL COUNCIL MEETING

AGENDA July 16, 2020

Meeting held through Webex

Chief Justice Matthew B. Durrant Presiding

1. 12:00 p.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 12:05 p.m. Chair's Report. Chief Justice Matthew B. Durrant
(Information)
3. 12:10 p.m. Administrator's Report and COVID-19 Update..... Judge Mary T. Noonan
(Information)
4. 12:20 p.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Budget & Fiscal Management Committee..... Judge Mark May
Liaison Committee..... Judge Kara Pettit
Policy & Planning Committee Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 - Information)
5. 12:45 p.m. Amendments to Rule 3-413. Judicial Library Resources Larissa Lee
(Tab 3 - Action) Jessica Van Buren
6. 12:55 p.m. Problem-Solving Court Recertifications..... Judge Dennis Fuchs
(Tab 4 - Action) Judge Randall Skanchy
7. 1:40 p.m. Judiciary Total Compensation Strategy Judge Mark May
(Tab 5 - Action) Bart Olsen
8. 1:55 p.m. FY21 Justice Court Technology, Security, and Training Jim Peters
(Tab 6 - Action)
9. 2:15 p.m. Commissioner Retentions Nancy Sylvester
(Tab 7 - Action)
- 2:25 p.m. Break

10. 2:35 p.m. Task Force on Racial & Ethnic Fairness: Lessons Learned and
Recommendations for Future Action..... Judge Mary T. Noonan
(Discussion) Brent Johnson
Justice Michael Zimmerman
Judge Tyrone Medley
Dr. Jennifer Yim
Judge William Thorne
- 4:05 p.m. Break
11. 4:15 p.m. Old Business/New Business All
Office of Fairness & Accountability Outreach Coordinator Position
(Discussion) Justice Deno Himonas
Judge Mary T. Noonan
12. 4:35 p.m. Executive Session - there will be an executive session
13. 5:00 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.

There are no items on the consent calendar.

Tab 1

Agenda

JUDICIAL COUNCIL MEETING**Minutes****July 1, 2020****Meeting conducted through Webex****12:00 p.m. – 12:40 p.m.***Chief Justice Matthew B. Durrant, Presiding***Members:**

Chief Justice Matthew B. Durrant, Chair
 Hon. Kate Appleby, Vice Chair
 Hon. Augustus Chin
 Hon. Ryan Evershed
 Hon. Paul Farr
 Justice Deno Himonas
 Hon. Mark May
 Hon. Kara Pettit
 Hon. Derek Pullan
 Hon. Brook Sessions
 Hon. Todd Shaughnessy
 Hon. John Walton

AOC Staff:

Hon. Mary T. Noonan
 Cathy Dupont
 Michael Drechsel
 Shane Bahr
 Tom Langhorne
 Larissa Lee
 Jim Peters
 Neira Siaperas
 Karl Sweeney
 Jeni Wood

Guests:**Excused:**

Hon. Brian Cannell
 Rob Rice, esq.

1. WELCOME: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex. This meeting was held to address a time-sensitive topic. Hon. Brian Cannell and Rob Rice were unable to attend.

2. OFFICE OF FAIRNESS & ACCOUNTABILITY: (Judge Mark May, Judge Mary T. Noonan, Cathy Dupont, and Karl Sweeney)

On June 22, 2020 the Judicial Council approved the concept of the creation of the Office of Fairness & Accountability with the understanding that within two weeks the Council would revisit the topic with specific detail as to the Office and a new Director. A workgroup was created of AOC members as well as judges to create the Charter, Role, Job Description, and Funding of the Office and the Director position.

Charter

The work of the courts is to provide an open, fair, efficient and independent system to advance access to justice under the law. Fairness is the basic premise of the court system of justice. The goal is a fair process that produces a just result, a system that treats similarly situated people similarly, and does not discriminate against marginalized communities. The Utah

Judiciary understands the public's trust and confidence in the courts requires us to identify any part of our process or outcomes that contribute to or cause the unequal treatment of individuals based on factors such as race, ethnicity, sexual orientation or gender. The Office of Fairness and Accountability is created to organize and lead the Utah Courts in examining and addressing bias within the judicial system. The Office will work collaboratively, both within the courts and with individuals and entities outside our system. The Office will focus on outreach to marginalized communities; data collection and research; judicial officer and employee education; recruitment and selection of court commissioners and employees; interpreter and language access; and reporting.

Role

The Office of Fairness and Accountability, composed of a Director and additional staff will work collaboratively with other offices and departments in the Judiciary, such as Court Data Services, Judicial Education, Human Resources, the State Law Library and Self-Help Center, and Information Technology Services. The Director will also collaborate with Judicial Council standing committees including the Standing Committee on Judicial Outreach; the Standing Committee for Self-Represented Parties; the Standing Committee on Language Access; and the Standing Committee on Judicial Branch Education. The Director will create and operationalize a strategic plan consistent with the charter.

The strategic plan will include the following areas of focus:

- Community outreach
 - Network with community partners such as CCJJ, UCLI, Diversity Offices, universities, etc.
 - Partner on access to justice initiatives and projects
 - Develop a speakers bureau to reach K-12 schools statewide
- Data collection and research
 - Collaborate with national experts and thought leaders to identify, gather and analyze relevant data
 - Coordinate with Court Data Services and Information Technology Services to capture and report relevant data
 - Jury information including juror selection, service, and pools
- Education for judicial officers and employees
 - Coordinate with the Judicial Education Department
 - Cultural competency
 - Implicit bias, institutional and individual biases
 - Other relevant skill sets
- Recruitment and selection of court commissioners and employees
 - Collaborate with Human Resources to obtain and analyze data
 - Monitor Human Resources implementation of best practices for recruitment and retention
 - Collaborate with organizations such as the Utah State Bar, UCLI, and schools to encourage individuals from marginalized communities to apply for judicial openings
- Interpreter and language access program
- Reporting

Director Qualifications and Skills

The Director of the Office of Fairness and Accountability is established in the Administrative Office of the Courts under the direction of the State Court Administrator. The Director serves as a member of leadership in the Administrative Office of the Courts and works collaboratively with the leadership team to implement the strategic plan and advance the goals of the Office.

Qualifications include:

- At least a Bachelor's degree or equivalent level of education in Criminal or Social Justice, Court Administration, Institutional Change Management, Public Administration, Business Administration or related education. Master's degree preferred.
- Six or more years of professional experience and two or more years in a supervisory or management capacity.
- Experience advancing diversity, equity, and inclusion in a complex organization.
- Knowledge and skill in both qualitative and quantitative data analysis methodologies, tools, and strategies.
- Ability to interface with diverse populations and various criminal/juvenile justice stakeholders.
- Ability to build strong professional relationships.
- Second language skills preferred but not required.

Director Salary

Proposed Salary Range: \$40.82 - \$62.50 (\$137K to \$200K total cost of position) as approved by the Budget & Fiscal Management Committee on June 26, 2020.

Proposed Funding

\$100,000 - Reduction of Judicial Council base budget from the ongoing budget of \$152,500 to \$52,000. The ongoing budget has been spent in the past on meeting costs and occasional conference attendance at an average of \$40K per year. With the virtual nature of Judicial Council meetings anticipated to continue and the change in food policy, the amount of funds needed to fund "ongoing" uses will likely decline to \$20K per year. This unit's budget also contains the onetime "reserve" money set aside by the Judicial Council annually from carryforward funds. For FY 2020 the reserve was \$150,000. Periodically, the one-time reserve portion pays for one-time expenditures (ex, Justice System Partners contract, etc.) which can be funded through carryforward funds instead of ongoing funds. Unspent funds in this unit are used to fund FY End Spending and Carryforward spending.

\$40,000 - Judicial Operations budget is \$87,500 in ongoing funds for judges, commissioners, and senior judges at \$500 per eligible person. A reduction from \$500 to \$100 per person would allow additional funds to be used for the new Office. Approximately, \$45,000 has been used annually. Only \$45K used annually. Amending this to \$100 per person would still provide funding at sufficient for ABA dues and section dues.

\$80,000 - At discretion of Judicial Council, fund in this order (1) surplus FY 2020 ongoing turnover savings, (2) reduce funds for in-person conferences (\$145,000 is current ongoing

budget) and/or judicial out-of-state training (\$50,000 is current ongoing budget). Ongoing turnover savings of \$520,000 have been pledged to achieve the budget savings for FY 2021.

The courts are also seeking \$100,000 one-time funds for the Public Outreach and Education Coordinator role; ongoing funds will be sought through FY22 legislative request.

Justice Deno Himonas was concerned that this presentation did not include racial issues and a press release. Judge Kara Pettit believed a press release should be sent after this item is approved. Chief Justice Durrant and Judge Pettit complimented those involved in this creation. Chief Justice Durrant would like an explicit reference of race to be added and that a task force could be created at some point.

Judge Derek Pullan agreed that the issue of race could be added to the plan and questioned about including poverty or economic status in the unequal treatment of individuals section. Cathy Dupont mentioned when the workgroup created this section one of the judges felt that other issues needed to be addressed but, race and ethnicity should be a priority. The Council determined all issues should be listed, even though the immediate topics should be racial and ethnic issues. Chief Justice Durrant felt this was a fresh start and perhaps should not address past efforts. Judge Augustus Chin recommended adding that the Judiciary “understands we must take steps to address inequities, including racism, and hold ourselves accountable for equal treatment for all.”

Judge Brook Sessions recommended adding that the Judiciary is willing to work with the other branches of government. Judge Kate Appleby agreed the list could be more explicit.

Chief Justice Durrant suggested using the first three sentences in the Charter in a press release and to include a link to the document.

Judge Todd Shaughnessy accepted one-time use of funds from the Judicial Operations Budget but was concerned about ongoing funds being used from the Judicial Operations Budget. Judge Appleby asked how this would affect the Council’s spending of other items, such as with senior judges and questioned if the courts have looked at grant funding. Mr. Sweeney said he could look to grant funding for FY22 and beyond and that the senior judge funding would not be impacted. Mr. Sweeney said funds from the Judicial Council and ongoing turnover savings would be enough for a Director position without using any Judicial Operations Budget.

Judge Pullan thought it may be a good idea to hire a Director then make further determinations on what may be needed before funding a second FTE. The Council agreed not to hire a Public Outreach Coordinator at this time unless funding can be established. Judge Noonan felt the coordinator position is critical but understood they would not be hired until after a Director has been hired.

Motion: Judge Shaughnessy moved to approve the creation of the Office of Fairness and Accountability, an AOC Director to oversee the Office, who would report directly to the Deputy State Court Administrator, and supervise the Director of Communications, Interpreter Program,

and Outreach Program, with one-time funding resources from \$100,000 (Judicial Council) and \$80,000 (ongoing surplus) funds, as amended as addressed above, with the final document and press release to be circulated to the Council members prior to release. Justice Himonas seconded the motion, and it passed unanimously.

3. OLD BUSINESS/NEW BUSINESS

There was no additional business discussed.

Motion: An email was distributed on July 6, 2020 as requested by the Council with the following documents: Proposed press release, Proposed Charter and Roles, Proposed budget, and the Proposed alignment. The Council approved the proposed changes by email.

4. ADJOURN

The meeting adjourned.

JUDICIAL COUNCIL MEETING**Minutes****June 22, 2020****Meeting conducted through Webex****9:00 a.m. – 1:00 p.m.*****Chief Justice Matthew B. Durrant, Presiding*****Members:**

Chief Justice Matthew B. Durrant, Chair
 Hon. Kate Appleby, Vice Chair
 Hon. Brian Cannell
 Hon. Augustus Chin
 Hon. Ryan Evershed
 Hon. Paul Farr
 Justice Deno Himonas
 Hon. Mark May
 Hon. Kara Pettit
 Hon. Derek Pullan
 Hon. Brook Sessions
 Hon. Todd Shaughnessy
 Hon. John Walton
 Rob Rice, esq.

Excused:**Guests:**

Hon. Christine Johnson, Fourth District Court
 Joanna Landau, Indigent Defense Commission
 Hon. Brendan McCullagh, West Valley Justice Court
 Commissioner Gil Miller
 Alex Peterson, Judicial Conduct Commission
 Heather Thuet, State Bar President-Elect
 Dr. Jennifer Yim, JPEC
 Kim Zimmerman, West Valley Judicial Assistant

AOC Staff:

Hon. Mary T. Noonan
 Cathy Dupont
 Michael Drechsel
 Heidi Anderson
 Brody Arishita
 Shane Bahr
 Geoff Fattah
 Kim Free
 Alisha Johnson
 Brent Johnson
 Larissa Lee
 Meredith Mannebach
 Jim Peters
 Clayson Quigley
 Nini Rich
 Neira Siaperas
 Karl Sweeney
 Nancy Sylvester
 Jeni Wood

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex.

Motion: Judge Kate Appleby moved to approve the May 18, 2020 Council minutes, as amended to correct Judge Farr's name in paragraph 15. Judge Derek Pullan seconded the motion, and it passed unanimously.

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

Chief Justice Durrant was impressed by the work of the Budget & Fiscal Management Committee.

3. ADMINISTRATOR'S REPORT AND COVID-19 UPDATE: (Judge Mary T. Noonan)

Judge Mary T. Noonan noted the State of Utah Judiciary Risk Phase Response Plan, Pandemic Risk Response Checklist, Screening Questions, COVID-19 Trial Recommendations for District and Justice Court, Jury Seating Capacity, Jury Trials in Justice Courts – Survey Results, Juvenile Trials Booklet, and the Pro Se Access to Technology were approved by the Management Committee. The documents will be discussed with the presiding judges, TCEs, Clerks of Court, and Chief Probation Officers tomorrow and will be released upon the completion of the amended administrative order. Prior to fully reopening, each court must submit a Risk Response Checklist to the Management Committee for approval. The courts will need to coordinate with local health departments when completing their checklist. The courts must be responsive to fluctuating situations over the next several months. Rob Rice volunteered to assist in sharing the plans with the Bar.

Judge Noonan said the acceleration phase of COVID-19 continues in Utah, which may be an issue in the larger court locations, such as, the Second, Third, and Fourth Districts. The Department of Health consulted with members of the Judiciary to assist with the completion of the Risk Response Plans. The Health Department advised the courts that they should plan on maintaining at least the yellow phase for all courts until late fall.

**4. COMMITTEE REPORTS:
Management Committee Report:**

The work of this committee is reflected in the minutes.

Budget & Finance Committee Report:

Judge Mark May said the committee has met twice over the past month, most recently, last Friday.

Liaison Committee Report:

Judge Kara Pettit said Michael Drechsel has been tracking recent legislative events of the Interim Judiciary Committee. Mr. Drechsel will provide regular updates on proposed legislation.

Policy and Planning Committee Report:

Judge Derek Pullan noted the committee received a request to amend the juvenile drug court certification checklist. Participation has declined due to H.B. 239. The committee will wait for additional information before a decision can be made on the checklist. The committee is also working on amending the rule that allows electronic portal devices.

Bar Commission Report:

Eric Christensen, Chair of the Regulatory Reform Subcommittee (tasked with gathering data on regulatory reform) reached out to sections of the Bar for comments on the regulatory

reform proposal. Mr. Christensen will distribute the information once compiled. Mr. Rice noted there has been an 18% increase in women lawyers. Mr. Rice reviewed racial statistics in the Bar.

5. JUDICIAL CONDUCT COMMISSION REPORT: (Alex Peterson)

Chief Justice Durrant welcomed Alex Peterson. Mr. Peterson reviewed the current Commission membership. The Commission prepared a reduced budget proposal; conducted a five-year review of their administrative rules; met with the Supreme Court to address rules; and responded to the COVID-19 pandemic, including conducting video conferencing meetings. The Commission has sent requests for information as follows: 4 – AOC, 13 – JPEC, 7 – CCJJ, and 17 – AJDC/CJE.

Commission Caseload Update

- 64 cases in FY19 compared to 58 cases in FY18. The commission currently has 48 cases in FY20, showing a downward trend.
- To date in FY20, there has been one public disposition and one DWW disposition for 1) Indecorous treatment of subordinates and 2) Abuse of prestige of judicial office.
- No Commission cases are pending before Utah Supreme Court.

Chief Justice Durrant thanked Mr. Peterson.

6. ODR EXPANSION: (Justice Deno Himonas, Larissa Lee, Judge Brendan McCullagh, Heidi Anderson, Brody Arishita, and Kim Zimmerman)

Chief Justice Durrant welcomed Judge Brendan McCullagh, Heidi Anderson, Brody Arishita, and Kim Zimmerman. The Board of Justice Court Judges voted to expand the ODR program from four justice court locations to justice courts statewide over the course of one to two years. Brody Arishita described how the ODR program works through a series of slides. Fifty percent of cases through the ODR program settle without hearings.

Judge McCullagh requested the Council recommend to the Supreme Court to make this program permanent, transition to statewide usage and to seek input from the Boards to create a roll-out schedule. Heidi Anderson said the majority of the work would be with training court personnel. Judge Pullan questioned in the beginning stages if there is an option for litigants to identify if they've retained an attorney. Justice Himonas said attorneys can appear in a case. Mr. Arishita said if there was an attorney on the case, they would file the documents.

Judge Todd Shaughnessy was concerned about financial and employee IT resources. Justice Himonas agreed that any financial changes or IT resources needed for the program would go through normal channels for assistance. Judge McCullagh confirmed that the MyCase program would not be affected by the ODR program. Judge Appleby was concerned that having Mr. Arishita present this program to other states might be a drain on IT resources. Mr. Arishita said he has a process and would spend limited time on the presentations.

Chief Justice Durrant thanked Judge McCullagh, Ms. Anderson, Mr. Arishita, and Ms. Zimmerman and noted the court system is fortunate to have the members of the IT Department.

Motion: Judge Paul Farr moved to approve the ODR expansion and recommend the rules become permanent, with the limitation that any financial changes or additional IT resources requests be brought to the Management Committee, as amended. Judge Pettit seconded the motion, and it passed unanimously.

7. INDIGENT DEFENSE COMMISSION REPORT: (Joanna Landau)

Chief Justice Durrant welcomed Joanna Landau. Ms. Landau presented the 2019 Annual Report. The Utah Indigent Defense Commission (IDC) protects constitutional liberties through ongoing support for effective indigent defense services. The Utah Territory had the country's first right-to-counsel laws, which are now found in the Utah Code and Constitution. Utah delegates that responsibility to its counties and cities. The Legislature created the IDC to provide guidance and accountability over those local services. Minors and adults who cannot afford to hire an attorney are considered indigent. Approximately 80% of Utah's adult criminal defendants are indigent. Local government participation with the IDC has increased from 1 county in 2017 to 12 counties and 4 cities in 2018 and 23 counties and 6 cities in 2019. Ms. Landau reported that the money appropriated to the IDC for establishing an appellate office in the 2020 General Session was lost in the budgets cuts of the Special Session.

In 2019, Utah's 29 counties spent \$35 million on indigent defense services, of which, \$21.5 million was spent in Salt Lake County. The Council was concerned that Ms. Landau was having a difficult time with justice courts inadequately funding indigent defense. Judge Shaughnessy questioned whether the courts could require justice courts to address the adequacy of indigent defense participation as part of their certification process. Ms. Landau said the current certification standards include a statement about providing indigent defense in compliance with the indigent defense standards.

Chief Justice Durrant thanked Ms. Landau for the important work of the commission.

8. JPEC RULE AMENDMENTS AND REPORT: (Dr. Jennifer Yim and Commissioner Gil Miller)

Chief Justice Durrant welcomed Dr. Jennifer Yim and Commissioner Gil Miller, recently elected as Chair to the subcommittee. Virtual observation hurdles for members of JPEC are being addressed; the benefits include observations without travel. Mid-term justice court judge's evaluations include intercept and exit interviews of staff. These will need to be supplemented when travel is safe and courts return to a more normal status. JPEC will also conduct a cost-benefit analysis before traveling to the justice courts to determine if they can speak to enough people.

Judge Shaughnessy asked how the evaluations are modified or impacted by differences between in person and virtual interactions in court. Dr. Yim said research has been conducted to identify the differences between in-person and virtual interactions. This research has been provided to the evaluators.

Dr. Yim addressed proposed changes to several JPEC rules. The rule amendments will allow for virtual observations, training associated with virtual observations, and evaluations. The rules have not been released for public comment. Justice Himonas recommended a change to

rule 597-3-6(2) to clarify the wording of when evaluations end for judges. Dr. Yim said this amendment was changed because evaluations are no longer needed when a judge announces their retirement, dependent on their retirement date. Dr. Yim said the language could be amended but it's meant to identify when a judge will retire.

Judge Pullan believed JPEC would agree that there would always be a preference for in-person evaluations. Dr. Yim wasn't sure what the majority of evaluators would prefer. Judge Pullan's concern was that the proposed amendment to the rule would allow JPEC to decide on how observations would be conducted. Dr. Yim noted Judge Pullan's concern. Judge Shaughnessy noted after the pandemic, some judges may hold only certain types of hearings virtually so JPEC may not be able to see a full picture of a judge if observation is limited to only online observation. Dr. Yim said they are putting together a basic evaluation process, with the addition of virtual hearings, Webex creates a level of transparency. Someday the courts may return to in-person hearings, but for now, virtual hearings allow for a better understanding of the processes in smaller, rural courts. Dr. Yim asked that the Council and Justice Court Reform review justice court certifications to perhaps include Webex broadcasting, even after the courts have returned to in-person hearings.

Chief Justice Durrant thanked Dr. Yim and Commissioner Miller.

9. XCHANGE FEES RULE AMENDMENTS: (Karl Sweeney and Clayson Quigley)

Chief Justice Durrant welcomed Karl Sweeney and Clayson Quigley. The courts submission to the EOCJ Legislative Subcommittee of 2%, 5%, and 10% budget cuts proposal included a \$316,000 increase in Xchange fees. The current proposal is to increase Xchange fees by approximately \$500,000.

Xchange fees have never been increased. However, new fees have been created and added to the various fees paid by users. The rule that governs these fees is Judicial Council Code of Judicial Administration 4-202.08.

For billing purposes there are three types of Xchange users: billable, non-billable, and media.

- Billable users (2069) are regular users subject to all of the fees described above. Most billable users are commercial entities that use the information for their business needs.
- Non-billable (1656) users are exempt from all fees. These are state and local government employees.
- Media users (51) are exempt from the monthly subscription fee but pay for over-cap searches and documents. Media accounts were exempted from the monthly subscription to help increase transparency and provide important information for general consumption for the benefit of the public.

The intent of the increase is to pass along to all of our users the increased costs of developing, operating and securing the Court's IT systems. It also seeks to increase fees on those who are the heaviest users of the system. All Xchange revenues are used to fund Courts IT and Court Services groups. Proposed increases are:

- Increase monthly subscription costs from \$30 to \$40.
- Increase the fee per search from \$0.10 to \$0.15
- Increase the number of free searches from 200 to 500.

The bulk of the Xchange revenue comes from monthly subscriptions and over-cap search fees (about 50% and 38% respectively, with document download fees comprising the other 12%.) Increasing the monthly subscription fee is equitable; however an increase to the over-cap search fee would address those who put the greatest burden on our systems. Post implementation, revenue split would be 49% subscription fees, 42% search fees, and 9% document fees.

Chief Justice Durrant thanked Mr. Sweeney and Mr. Quigley.

Motion: Judge May moved to approve an increase of Xchange fees for FY21 as follows: subscription costs \$40, fee per search \$.15, and free searches increased to 500, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

10. BUDGET CUTS: (Judge Mary T. Noonan and Karl Sweeney)

Chief Justice Durrant thanked Judge Noonan and Mr. Sweeney. The Legislature approved SB 5001 - Budget Balancing and Coronavirus Relief Appropriations Adjustments, which allowed them to remove the previously-approved ongoing and one-time funding for the three Judicial Council priorities from the 2020 session: Technology Investment (\$932,000 ongoing and \$450,000 one-time); Court Commissioners (\$92,500 ongoing); and Child Welfare Mediator (\$54,947 ongoing). The Legislature also removed nearly all funding connected to fiscal notes on new legislation that passed during the 2020 General Session. The Technology Investment (\$932,000 ongoing and \$450,000 one-time) and the Child Welfare Mediator (\$54,947 ongoing) are seeking approval to use funds from the carry forward FY21 money. The IT Unfunded Mandates (\$288,900) are also seeking approval to use carry forward FY 2021 money.

The Public Outreach Coordinator (\$100,000) request, sought approval for one-time funding of the position. A submission to seek permanent funding has been approved by the Budget & Fiscal Management Committee and will be submitted at the August Judicial Council meeting.

Justice Deno Himonas would like the Council to consider hiring a grant coordinator. Judge May said these requests are sent to the Finance Department first to be included in the budget requests considered by the committee and the Council. Judge Noonan confirmed new permanent positions must go through the building block process and thought this issue was already on track to be addressed.

Judge Noonan appreciated the work of the TCEs and Budget & Fiscal Management Committee for their work on the budget reduction scenarios submitted to the Legislature. Mr. Sweeney said only H.B. 485 Amendments Related to Surcharge Fees survived the legislative special session.

Judge Pullan requested further discussion on the Public Outreach Coordinator request. Judge Shaughnessy recommended approving it with the option of keeping the title and duties

open for additional discussion. The Council decided to hold on making a determination on the Public Outreach Coordinator position.

Motion: Judge Appleby moved to confirm the budget cuts, as approved by the Council and to approve the Technology Investment (\$932,000 ongoing and \$450,000 one-time), the Child Welfare Mediator (\$54,947 ongoing), and the IT Unfunded Mandates (\$288,900) request through FY21 carry forward funds, as presented. Justice Himonas seconded the motion, and it passed unanimously.

11. CODE OF JUDICIAL ADMINISTRATION RULES 1-102, 6-102, AND 7-101 FOR EXPEDITED APPROVAL: (Michael Drechsel)

Chief Justice Durrant welcomed Michael Drechsel. At the Judicial Council's request, the Legislature passed SB01671 during the legislative session, effective May 12, 2020. The bill expanded the membership of the Judicial Council, adding a new district court judge member (for a total of six district court judges) and a new juvenile court judge member (for a total of three juvenile court judges). SB0167 therefore expands the total membership of the Council from 14 to 16 members.

There are three rules in the Code of Judicial Administration that need attention to properly effectuate the legislative change and to harmonize the rules for internal consistency:

- 1-201 (Council membership and elections generally);
- 6-102 (district court); and
- 7-101(6) (juvenile court).

Policy and Planning has considered these rule changes and recommends to the Council that the rules be adopted under the expedited rulemaking procedures of Rule 2-205. Expedited rulemaking is advisable because: the changes to Council size are already in Utah Code; some of the rule changes are necessary to implement the statute; the matter has already been given considerable attention by the Council prior to the legislative session, including hearing from the various benches; the issues are squarely internal administrative decisions that should not need public comment; and the Boards of judges were involved in the drafting process.

Mr. Drechsel stated in an effort to balance the Council, the Sixth/Seventh and Eighth Districts could share a seat on the Council, as well as First and Fifth District. Judge Shaughnessy recommended Mr. Drechsel present this proposal to the Boards for their input. Shane Bahr noted the Board of District Court Judges has reviewed the proposal rules.

Chief Justice Durrant thanked Mr. Drechsel.

Motion: Judge Shaughnessy moved to approve the expedited approval of Code of Judicial Administration Rules 1-201, 6-102, and 7-101, as presented, with an effective date of June 22, 2020. Judge Appleby seconded the motion, and it passed unanimously.

12. RACIAL AND ETHNIC TASK FORCE RECOMMENDATIONS: (Judge Derek Pullan, Brent Johnson, and Clayson Quigley)

Chief Justice Durrant welcomed Brent Johnson and Clayson Quigley. Mr. Quigley reported that as a whole, race and ethnicity data is not recorded in our case management systems at a regular or reliable rate. Some courts and court levels record this information while others do not. Because of the unreliability of this data and the sensitivity around the data elements, Court Services does not prepare reports that include race and ethnicity data points.

District Courts

The district court does not collect race and ethnicity data in the case management system in a consistent or reliable manner. Over the last 6 years, nearly 64% of criminal cases and 99% of civil cases had no race or ethnicity data or the information was unknown. Unlike the justice court, district courts are more likely to leave the race and ethnicity blank than indicate that it is unknown. There are districts that record race and ethnicity data more consistently than others. The Eighth District collects this information at a more consistent rate than any other district. Since 2014, on average the Eighth District collected race and ethnicity data on 77% of cases, however close to 10% of cases recorded “unknown”. However, the Third District only has race and ethnicity data for less than 1% of cases filed between 2014 and 2019. The overall statewide number is greatly affected by this due to the volume of cases in the Third District.

Juvenile Courts

The juvenile court is by far the most reliable and consistent collector of race and ethnicity data. There are several federal grants and state programs which require regular reporting of these data elements. Since 2014, the juvenile court has on average collected race data for about 98% of petitions filed with the court. Likewise, they have collected ethnicity data on 96% of petitions.

Justice Courts

Justice courts as a whole collect race and ethnicity data on 76% of criminal cases. On the 24% of cases where the information is unknown or blank, the justice courts are more likely to report “unknown.” If self-reported, unknown may indicate that the individual did not want to report their race or ethnicity. In cases where the race or ethnicity is observed, unknown would indicate that the observer was unable to identify the individual’s race or ethnicity.

Summary

The Utah Courts would not be able to engage in a statewide study involving race and ethnicity data with the current data practices. We may be able to do limited research by only looking at information from select sites and/or court levels. However, these limitations would make it impossible to extrapolate meaningful analysis to a statewide level.

Mr. Quigley felt if the Council wishes to engage in such studies in the future, there should be further discussion about improvements to our data systems to record the information in a manner that is consistent with national practice and standards. Additionally, the Council should create policy concerning the collection methods, safeguarding, and use of race and ethnicity data. Judge Pullan commented that in the absence of the other branches of governments being involved in the study of racial and ethnic fairness, the Judiciary’s efforts may fall short. However, Judge Pullan would like to recreate a task force. Judge Appleby questioned the cost of

collection of information. Mr. Quigley said the system is currently set up, with a few minor adjustments, to obtain this information. Mr. Quigley said policies would need to be created and staff would need to be trained.

Mr. Rice noted during the Council retreat in 2019, Justice Zimmerman said the Legislature stopped the funding for a statewide response to the findings of the Racial and Ethnic Task Force. Mr. Rice recommended asking the Legislature to fund a statewide approach to the issue, as well as move forward internally on the issue of racial and ethnic fairness. Judge Shaughnessy said historically having a task force with all three branches didn't work and that the Judiciary could consider having a task force within the Judiciary.

Justice Himonas suggested mandatory implicit bias training annually for court personnel. Chief Justice Durrant preferred a new task force be created. Judge Noonan said in an effort to identify the issue of racial and ethnic fairness as a long-term commitment, the Council could consider creating an office, with a director and staff, to take action on racial and ethnic fairness in the Judiciary. She suggested this approach rather than a task force. Judge Pullan recommended the title be: Office of Fairness, Equality and Accountability. Judge Pettit stated the request for the Public Outreach Coordinator could be transitioned to report directly to the State Court Administrator and possibly increase the funding. Judge Shaughnessy said the requested position would be very different than a position needed for this office. Judge Noonan proposed having the Budget & Fiscal Management Committee meet within one week to review whether the proposed Public Outreach Coordinator position could be reworked to one needed for this office. Then readdress this issue to possibly advance a directorship in an emergency Council meeting.

Judge Appleby said it would be difficult to determine what the courts need without first seeing the data and a detailed plan. Judge Brook Session believed the last task force may have had too many members. Judge Pettit thought the first task should be to identify the issues. The newly created office would be tasked to research the history of the task force, coordinate implicit bias training, and identify current issues. Justice Himonas discussed the need to coordinate the different Supreme Court standing committees that deal with these issues and evaluate whether there is a need to revise or adopt judicial rules to implement racial and ethnic fairness in the courts.

Chief Justice Durrant thanked Judge Pullan, Mr. Johnson, and Mr. Quigley.

Motion: Judge Shaughnessy moved to approve the concept of the creation of the Office of Fairness, Equality and Accountability with the details and the job description to be developed by the Budget & Fiscal Management Committee and to be presented to the Council within two weeks, as amended. Justice Himonas seconded the motion, and it passed unanimously.

13. JUDICIAL COUNCIL HISTORY PROJECT: (Judge Derek Pullan and Cathy Dupont)

Judge Derek Pullan reviewed the status of the tasks associated with the Judicial Council History Project and noted letters have been sent to several people seeking additional information regarding the Council's history. Judge Sessions recommended asking if there were rejected reform proposals that may be necessary with current conditions.

Chief Justice Durrant thanked Judge Pullan and Ms. Dupont.

14. BOARD OF DISTRICT COURT JUDGES REPORT AND RULES: (Judge Christine Johnson and Shane Bahr)

Chief Justice Durrant welcomed Judge Christine Johnson. Mr. Bahr noted the Management Committee determined the rules would be sent to the Supreme Court therefore this item was not addressed. Judge Johnson said the Board met last week to address the potential statement on ethnic fairness. The Board felt a statement should not be given by the Judiciary. Judge David Connors continues to be the representative on the ABA. Judge Sam Chiara and Judge Barry Lawrence represented the district court on the Risk Response Workgroup. The Board has been reviewing the Judicial Operations Budget. The Board volunteered to assist the Council with any issues as needed.

Chief Justice Durrant thanked Judge Johnson and Mr. Bahr.

15. OLD BUSINESS/NEW BUSINESS

a. PEW Commission/Utah State Courts Grant Agreement: (Justice Deno Himonas)

Justice Himonas reviewed the PEW Commission ODR Grant in the amount of \$185,000.

b. NCSC System Review Phase 2: (Judge Mary T. Noonan and Cathy Dupont)

Judge Noonan informed the Council that the National Center for State Courts proposed delaying the survey and continued work on the review until a later date. Judge Appleby and Judge Shaughnessy agreed that once the review begins that the courts would need to basically start over as the landscape of the Judiciary has changed so much. Cathy Dupont said when we inform the Judiciary that the system review is on hold, we could encourage judges or staff with concerns or comments to contact Judge Noonan with those concerns. .

c. Mental Health Initiative: (Judge Kara Pettit)

Judge Pettit said the seminar has been postponed for about a year. The Summit will hopefully be next year.

d. Federal CARES Act Eviction Moratorium: (Nancy Sylvester)

Nancy Sylvester presented the Declaration Concerning CARES ACT and letters from Brenda Marsteller Kowalewski, Chair of the Ogden Civic Action Network, and Martin Blaustein of the Utah Legal Services. Both organizations requested the courts enter an order requiring parties to plead whether the CARES Act applies in their eviction cases. The Supreme Court reviewed the letters; however, with the eviction moratorium expiring on July 15, they decided to not make any decisions at this time. If the moratorium is extended, the Supreme Court will revisit the requests. Nathanael Player conducted research and found that only four states have acted through administrative orders on evictions.

e. Access to Justice: (Justice Deno Himonas)

Justice Himonas presented a project proposal (Legal Empowerment in Underrepresented Communities Experiencing Medical Debt) from the University of Arizona.

16. STATEMENT OF THE JUDICIARY: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reviewed the draft statement he authored. The Board of Juvenile Court Judges, with the support of five Board members and opposition by one Board member, voted to request that the Judicial Council issue a public statement reaffirming the Judiciary's commitment to the core mission and values. The Board of District Court Judges recommended that a public statement not be issued by the Judiciary.

A majority of the Board of Justice Court Judges advised against the Judicial Council's issuing a public statement. It believed that the Judiciary can best demonstrate its commitment to neutrality by staying "above the fray," because that has always been its approach in the past. If the Judicial Council does decide to issue a statement, however, the Board would recommend that the statement only include the first paragraph of the draft statement prepared by Chief Justice Durrant.

Justice Himonas said he would like to issue a stronger statement than has been presented. Judge Pullan felt it would be ill-advised to issue a statement as it may appear to be political and that the Council should be cautious about judicial neutrality. Judge Shaughnessy felt this is a time for meaningful actions not words. Chief Justice Durrant agreed that a statement with action would be preferred. Judge Appleby said the Board of Appellate Court Judges felt a statement without meaningful action may not be acceptable.

Motion: Judge Pullan moved to make a public announcement of the concrete actions taken today after the creation of the Office of Fairness, Equality and Accountability, with the Council reviewing the statement before it's published. Justice Himonas seconded the motion, and it passed unanimously.

17. EXECUTIVE SESSION

Motion: Judge Appleby moved to go into an executive session to discuss a personnel matter. Judge Chin seconded the motion, and it passed unanimously.

18. CONSENT CALENDAR ITEMS

a) Committee Appointments. Reappointment of Kara Mann to the Forms Committee and the appointments of Judge Michael Leavitt and Evangelina Burrows to the Language Access Committee. Approved without comment.

b) Probation Policies 1.2, 1.3, and 1.8. Approved without comment.

c) Rules 4-202.02, 6-507, 3-407, 4-609, 10-1-404, 4-401.01, and 4-401.02 for Public Comment. Approved without comment.

19. ADJOURN

The meeting adjourned.

Tab 2

**JUDICIAL COUNCIL'S
MANAGEMENT COMMITTEE**

**Minutes
July 8, 2020
Meeting held through Webex
12:00 p.m. – 2:00 p.m.**

Chief Justice Matthew B. Durrant, Presiding

Committee Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Paul Farr

Excused:

Hon. Mark May
Hon. Todd Shaughnessy

Guests:

Hon. F. Richards Smith, Fourth District Juvenile Court
Hon. Dennis Fuchs, Senior Judge
Hon. Michael Kwan, Taylorsville Justice Court

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Shane Bahr
Wayne Kidd
Larissa Lee
Chris Palmer
Jim Peters
Neira Siaperas
Keisa Williams
Jeni Wood

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

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

Motion: Judge Kate Appleby moved to approve the July 1, 2020 Management Committee meeting minutes, as presented. Judge Paul Farr seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Judge Mary T. Noonan)

Judge Mary T. Noonan was thankful for the quick creation and approval of the Office of Fairness and Accountability. The press release will be issued tomorrow.

3. NATIONAL CASA MENTORING GRANT: (Stacey Snyder)

This item was not addressed.

4. TAYLORSVILLE JUSTICE COURT (TCJ) REOPENING PLAN: (Judge Michael Kwan)

Judge Michael Kwan completed the Risk Response Plan Checklist with most sections being marked as complete, with the exception of checklist item 1: TJC requests to operate in the

Yellow phase as the COVID-19 rates have been stable or decelerating for the last 14 days. Chief Justice Durrant thanked Judge Kwan and his team for a well-created plan.

Motion: Judge Farr moved to approve reopening the Taylorsville Justice Court for operations with the approval of the Management Committee moving the court to the Yellow phase, as presented. Judge Appleby seconded the motion, and it passed unanimously.

5. JUVENILE DRUG COURT CERTIFICATION CHECKLIST: (Judge Dennis Fuchs)

Judge Fuchs requested that Policy and Planning amend the Juvenile Drug Court Certification Checklist by moving standard # 25, "the Juvenile Drug Court has more than 15 but less than 125 active participants," from the Presumed Category to the Best Practices Category. An alternative option is to leave standard #25 in the Presumed Category but reduce the minimum participation requirement from 15 to 8. According to Judge Fuchs, the number of participants in juvenile drug courts across the state has dropped significantly as a result of juvenile justice reform. There are only four juvenile drug courts in Utah.

Policy and Planning expressed concerns about the efficiency of juvenile drug courts with less than 15 participants. Are the courts able to function in a meaningful way? Do the low participation numbers impact the success of the juveniles who are participating? Ultimately, the Committee determined that the issue should be presented to the Judicial Council. If participation across the state is so low, should the court allow juvenile drug courts to wind down and be phased out altogether?

The Board of Juvenile Court Judges prepared a memo in response to questions posed by the Policy and Planning Committee, noting that juvenile and family dependency drug courts are different from criminal drug courts and have unique characteristics and practices. For example, the notion that a juvenile drug court could have up to 125 participants is not viable and would make the court unmanageable and ineffective. The length of hearings and the practices must be adapted in accordance with adolescent brain development principles. The settings and the motivations for participants are different than in the criminal drug courts and as such, applying standards from criminal drug courts is misplaced and ineffective.

If the minimum standard of 15 participants refers to an aggregate total of 15 participants in a one-year period, then juvenile drug courts have historically met the minimum standard, but currently may fall short. The minimum of 15 participants at the same time standard should not be applied in juvenile drug courts. There are funding limitations and barriers with achieving the 15-participant standard.

National research on juvenile drug courts is minimal, but there are long-term studies that will provide valuable information about the impact and efficacy of participation in juvenile drug courts on adolescents. Further, local data collected over one year in Judge Beck's juvenile drug court shows promising results. Participants in a juvenile drug court showed a significant decrease in dynamic risk factors and an even more significant increase in dynamic protective factors as compared with youth who participated on regular probation.

Juvenile problem-solving courts provide invaluable interventions to youth and families involved in juvenile court. In rural areas of the state with scarce resources, juvenile or family dependency drug courts may be one of the few if not the only intervention available. The Board requested that the Judicial Council consider the unique characteristics and needs of juvenile and family dependency drug courts separate from the expectations, standards, and preconceptions of criminal drug courts. The Board strongly disagrees with phasing out and eliminating juvenile problem-solving courts and requested that the minimum standard of 15 participants be from the Presumed Category to the Best Practices Category.

Motion: Judge Appleby moved to approve moving the 15-participant minimum from the Presumed Category to the Best Practices Category without a requirement to meet this, in the Juvenile Drug Court Certification Checklist, as amended to include Judge Fuchs keeping the Management Committee informed of studies that have been completed, and to remove this item from the Judicial Council agenda. Judge Farr seconded the motion, and it passed unanimously.

6. FINANCE DEPARTMENT AUDIT: (Wayne Kidd)

Wayne Kidd noted the audit completed on the AOC's Finance Department was completed in accordance with the International Standards for the Professional Practice of Internal Auditing. Mr. Kidd thanked Tracy Chorn, Auditor, and the Finance Department for their professionalism and dedication to the audit.

7. TOOELE COUNTY JUSTICE COURT REOPENING PLAN: (Judge John Mack Dow)

This item was not addressed.

8. ACCESS TO PUBLIC COMPUTER TERMINALS: (Judge Mary T. Noonan)

This item was not addressed.

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

Chief Justice Durrant addressed the Judicial Council agenda.

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

10. OLD BUSINESS/NEW BUSINESS: (All)

There was no additional business discussed.

11. EXECUTIVE SESSION

An executive session was held.

12. ADJOURN

The meeting adjourned.

**JUDICIAL COUNCIL'S
BUDGET & FISCAL MANAGEMENT COMMITTEE**

**Minutes
June 26, 2020
Meeting held through Webex
12:00 p.m. – 1:00 p.m.**

Members Present:

Hon. Mark May, Chair
Hon. Augustus Chin
Hon. Kara Pettit

Excused:

Larissa Lee
Jim Peters

Guests:

Joyce Pace, Fifth District TCE
Larry Webster, Second District TCE

AOC Staff Present:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Shane Bahr
Alisha Johnson
Bart Olsen
Neira Siaperas
Karl Sweeney
Jeni Wood

1. WELCOME AND APPROVAL OF MINUTES: (Judge Mark May)

Judge Mark May welcomed everyone to the meeting. Judge May addressed the meeting minutes.

Motion: Judge Augustus Chin moved to approve the June 19, 2020 minutes, as presented. Judge Kara Pettit seconded the motion, and it passed unanimously.

2. RECAP OF WORKGROUP PARTICIPANTS AND MEETING: (Judge Mary T. Noonan)

Judge Mary T. Noonan noted a workgroup was created at the request of the Judicial Council to address the creation of a new office/director in the AOC that would focus on fairness in the courts. Judge Pettit questioned what authority the Judicial Council held in the selection of officers.

Judge Pettit recommended correcting replacing the word “fair” with “just” as the courts do not always offer a fair result, but the results are just. The committee liked that idea.

3. REPORT OUTS FROM WORKGROUP: (Karl Sweeney, Judge Mary T. Noonan, Cathy Dupont, and Bart Olsen)**A. Review of Office of Equity and Accountability Charter**

The work of the courts is to provide an open, fair, efficient and independent system to advance access to justice under the law. Fairness is the basic premise of our system of justice. The goal is a fair process that produces a fair result, a system that treats similarly situated people similarly, and does not discriminate against marginalized communities.

The Utah Judiciary understands the public's trust and confidence in the courts requires us to identify any part of our process or outcomes that contribute to or cause the unequal treatment of individuals based on factors such as race, ethnicity, sexual orientation or gender. We understand we must act to address inequities and hold ourselves accountable for equitable treatment for all.

The Office of Fairness, Equity and Accountability is created to organize and lead the Utah Courts in examining and addressing bias within the judicial system. The Office will work collaboratively, both within the courts and with individuals and entities outside our system. The Office will focus on outreach to marginalized communities; data collection and research; judicial officer and employee education; recruitment and selection of judicial officers and employees; interpreter and language access; and finally, reporting.

B. Review of Organization Chart of the Office

The Director would report directly to the Deputy State Court Administrator. The Directors of the Communications, Interpreter Program, and Outreach Program would report directly to the Director. Judge Noonan preferred not to have the Law Library/Self-Help Center report to this Director so as not to overwhelm the new Director. Cathy Dupont noted originally the realignment would be to move the Communication's Director to this position, however, after further consideration, they decided to have the Communication's Director separate.

C. Review of Job Descriptions of Director and Coordinator

The Director of the Office of Fairness, Equity & Accountability is established in the Administrative Office of the Courts under the direction of the State Court Administrator. The Director serves as a member of leadership in the Administrative Office of the Courts and works collaboratively with the leadership team to implement the strategic plan and advance the goals of the Office. Qualifications include:

- At least a bachelor's degree or equivalent level of education in Criminal or Social Justice, Court Administration, Institutional Change Management, Public Administration, Business Administration or related education. Master's degree preferred.
- Six (6) or more years of professional experience and two (2) or more years in a supervisory or management capacity.
- Experience advancing diversity, equity, and inclusion in a complex organization.
- Knowledge and skill in both qualitative and quantitative data analysis methodologies, tools, and strategies.
- Ability to interface with diverse populations and various criminal/juvenile justice stakeholders.
- Proven track record of establishing and implementing diversity initiatives and/or change management efforts within large organizations.
- Ability to build strong professional relationships.
- Second language skills preferred but not required.

The Office of Fairness, Equity, and Accountability, comprised of a Director and additional staff (see attached "Structural Alignment") will work collaboratively with other offices and departments in the judiciary, including the Standing Committee on Judicial Outreach;

the Standing Committee for Self-Represented Parties; the Standing Committee on Language Access; and the Standing Committee on Judicial Branch Education.

The Director will create and operationalize a strategic plan consistent with the charter. The Director will work closely with and respond to Judicial Council standing committees, including: The strategic plan will include the following areas of focus:

- Community outreach
 - Network with community partners such as CCJJ, UCLI, Diversity Offices, universities, etc.
 - Partner on access to justice initiatives and projects
 - Develop a speaker's bureau to reach K-12 schools statewide
- Data collection and research
 - Collaborate with national experts and thought leaders to identify, gather and analyze relevant data
 - Coordinate with Court Data Services and Information Technology Services to capture and report relevant data
 - Jury information including juror selection, service, and pools
- Education for judicial officers and employees
 - Coordinate with the Judicial Education Department
 - Cultural competency
 - Implicit bias, institutional and individual biases
 - Other relevant skill sets
- Recruitment and selection of judicial officers and employees
 - Collaborate with Human Resources to obtain and analyze data
 - Monitor Human Resources implementation of best practices for recruitment and retention
 - Collaborate with organizations such as the Utah State Bar and UCLI to encourage individuals from marginalized communities to apply for judicial openings
- Interpreter and language access program
- Reporting

D. Review of Funding Sources and Uses of the Office

The proposed salary range would be between \$40.82 - \$62.50, for a total cost of the position to be between \$137,000 to \$200,000.

Ongoing funding of \$100,000 could come from reducing the Council's annual budget of \$152,500 to \$52,500. The Council funds also contain reserve funds (FY20 \$150,000). The Council typically spends \$40,000 a year. Ms. Dupont reviewed some of the funding expenditures, such as one-time spending of a conference. Mr. Sweeney confirmed with reducing the Council budget by \$100,000 for this position, the Council would still have \$52,200 plus the \$150,000 in reserves. Mr. Sweeney said any funds from this budget that are not spent, are rolled over into year-end or carryforward spending.

Historically, the Judicial Operations Budget allotted to each judge reaches \$45,000 annually as many judges do not use their Budget. If this was reduced to \$100 per judge, any additional funds needed by judges could come from their districts. Shane Bahr reminded the

committee some items, such as ABA dues are paid from the judges' Judicial Operations Budget. It was noted the membership is discretionary. Judge Pettit would like the committee to keep in mind some expenditures may include electronic devices for judges.

At discretion of Judicial Council, the Education fund could be used in this order (1) surplus FY 2020 ongoing turnover savings, (2) reduce funds for in-person conferences (\$145,000 is current ongoing budget) and/or judicial out-of-state training (\$50,000 is current ongoing budget). Ongoing turnover savings of \$520,000 have been pledged to achieve the budget savings for FY 2021. The courts expect to exceed the \$520,000 by between \$40,000 - \$50,000 for FY 2020 which can be used to partially fund this position.

Onetime funds of \$100,000 could be used for the Public Outreach Coordinator position with carryforward money.

It is anticipated to fund the Public Outreach Coordinator position and this Director position including office expenses, the courts would need \$217,000 in ongoing money. Mr. Sweeney clarified that the requested amount includes \$100,000 for an Outreach Coordinator position of one-time funds. Another \$100,000 plus \$17,000 is anticipated for the second position of the new Director in salary and office expenses.

Without motion, the committee approved the creation of the Office of Fairness and Accountability, the Charter, the Organization Chart, Accountability Duties of the Director, and funding.

4. OLD BUSINESS/NEW BUSINESS: (All)

There was no additional business discussed.

5. ADJOURN

The meeting adjourned at 1:04 p.m.

Tab 3

UTAH SUPREME COURT

Matthew B. Durrant
Chief Justice

Thomas R. Lee
Associate Chief Justice

Deno Himonas
Justice

John Pearce
Justice

Paige Petersen
Justice

Utah Appellate Courts

Larissa Lee
Appellate Court Administrator

450 South State Street
Salt Lake City, Utah 84114-0230
Telephone: (801) 578-3834
Email: larissal@utcourts.gov

UTAH COURT OF APPEALS

Gregory K. Orme
Presiding Judge

Michele M. Christiansen Forster
Associate Presiding Judge

Kate Appleby
Judge

David N. Mortensen
Judge

Jill M. Pohlman
Judge

Ryan M. Harris
Judge

Diana Hagen
Judge

Nicole I. Gray
Supreme Court Clerk of Court



Lisa A. Collins
Court of Appeals Clerk of Court

Date: June 30, 2020
To: Management Committee
From: Judge Mary T. Noonan, Larissa Lee, Jessica Van Buren
Subject: Folding the Law Library and Self-Help Center into the AOC

Dear Management Committee:

The Law Library and Self-Help Center are currently housed under the appellate umbrella. However, these departments are often treated as being housed under the Administrative Office of the Courts and logistically make more sense under the AOC. We recommend that the Judicial Council approve moving the Law Library and Self-Help Center under the AOC's umbrella and amend the attached rule to have the Law Library Director report to the State Court Administrator rather than the Appellate Court Administrator.

This move would remove some unnecessary bureaucracy because Jessica's departments function much more like an AOC department rather than a court level and are deeply involved in AOC operations. Jessica attends the AOC Director meetings and her staff attends the AOC staff meetings and parties. Jessica is the only person considered an "AOC Director" who does not report directly to the State Court Administrator.

Moreover, the move would be fairly simple. For finance and HR purposes, the move would require minimal work because both the Law Library and the Self-Help Center are already under their own budget and have their own unit numbers.

Jessica and Larissa met with the Supreme Court on June 24 and the Court unanimously supported moving the Law Library and Self-Help Center under the AOC's umbrella. In addition, Judge Noonan (proposed supervisor) and Larissa Lee (current supervisor) both support this move.

Accordingly, we recommend that the Judicial Council approve the attached amendments to Rule 3-413 and approve incorporating the Law Library and Self-Help Center into the AOC.

Sincerely,

Judge Mary T. Noonan
Larissa Lee
Jessica Van Buren

1 **Rule 3-413. Judicial Library Resources.**

2 **Intent:**

3 To establish minimum standards for legal reference materials to be provided to judicial and
4 quasi-judicial officers and court employees.

5 To establish acquisition, distribution and budgetary responsibilities for the legal reference
6 materials identified in this rule for the state law librarian.

7 To realize financial advantages through the use of high volume purchases of regularly used legal
8 reference materials.

9 **Applicability:**

10 This rule shall apply to the state law library, all judges and commissioners of courts of record
11 and not of record, and all court employees.

12 **Statement of the Rule:**

13 **(1) State law library.**

14 (1)(A) The state law library shall be supervised and administered by the state law
15 librarian under the general supervision of the ~~Appellate-state C~~ourt ~~A~~administrator.

16 (1)(B) The state law librarian shall facilitate the purchase of the electronic research
17 resources and print publications authorized by this rule and arrange to have them
18 distributed in accordance with this rule.

19 **(2) Responsibility for providing judicial library resources.**

20 **(2)(A) Electronic research resources.**

21 (2)(A)(i) The state court administrator shall provide access to approved electronic
22 research resources, including commercial legal databases.

23 (2)(A)(ii) All judges of courts of record, judges of courts not of record, court
24 commissioners, and staff attorneys shall have access to these electronic research
25 resources. Other employees may receive access to these resources based upon a
26 demonstrated need and supervisor authorization.

27 (2)(B) **Print publications for appellate, district, and juvenile courtrooms.** Each
28 appellate, district, and juvenile courtroom is~~The following officials or locations are~~
29 authorized to receive a print publication set of the Utah Code Unannotated, and one set of
30 the Utah Court Rules Annotated~~print publications~~, which shall be provided by the state
31 court administrator ~~unless specifically noted below, as follows:~~

32 ~~(2)(B)(i) **Judges of courts of record:**~~

33 ~~(2)(B)(i)(a) one set of the Utah Code Annotated, one set of the Utah Code~~
34 ~~Unannotated, and one set of the Utah Court Rules Annotated; or~~

35 ~~(2)(B)(i)(b) two sets of the Utah Code Unannotated and one set of the~~
36 ~~Utah Court Rules Annotated.~~

37 ~~(2)(B)(ii) **Court commissioners:** two sets of the Utah Code Unannotated and one~~
38 ~~set of Utah Court Rules Annotated.~~

39 ~~(2)(B)(iii) **Active senior judges:** one set of the Utah Code Unannotated, paid for~~
40 ~~by the Administrative Office of the Courts.~~

41 ~~(2)(B)(iv) **Staff attorneys:** one set of the Utah Code Unannotated and one set of~~
42 ~~Utah Court Rules Annotated.~~

43 ~~(2)(B)(v) **Courts without a permanently-sitting judge:** two sets of the Utah~~
44 ~~Code Unannotated and one set of Utah Court Rules Annotated.~~

45 (2)(C) **Publisher's complimentary copies.** The publisher of the Pacific Reporter
46 currently provides complimentary volumes to appellate judges as of the date of the
47 judge's appointment to the appellate court. The state law librarian shall coordinate the
48 distribution of these materials with the judges and the publisher.

49 (2)(D) **Counties.** Each county shall provide a current copy of either the Utah Code
50 Annotated with annual updates or the softbound Utah Code Unannotated to each county
51 justice court judge serving within that county. Each county operating a court of record
52 under contract with the administrative office of the courts shall provide the judge with
53 access to the local law library pursuant to Section 78A-5-111.

54 (2)(E) **Municipalities.** Each municipality shall provide a current copy of either the Utah
55 Code Annotated with annual updates or the softbound Utah Code Unannotated to each
56 municipal justice court judge serving within that municipality. Each municipality
57 operating a court of record under contract with the administrative office of the courts
58 shall provide the judge with access to the local law library pursuant to Section 78A-5-
59 111.

60 (2)(F) **Administrative office of the courts.** The administrative office of the courts shall
61 provide a Justice Court Manual, updated biannually, to each judge of a court not of
62 record.

63 (3) **Budget Procedures.**

64 (3)(A) The state law librarian shall separately account for:

65 (3)(A)(i) the operating budget for the state law library;

66 (3)(A)(ii) the costs associated with access to electronic research resources in
67 subsection (2)(A); and

68 (3)(A)(iii) the costs associated with the purchase of print publications in
69 subsection (2)(B).

70 (3)(B) Funds appropriated or allocated for purchasing in accordance with subsections
71 (2)(A) and (2)(B) shall not be used to supplement the appropriation to the state law
72 library.

73 (3)(C) The purchase of electronic research resources and print publications to fully
74 implement the provisions of this rule shall be limited by the availability of funds.

75 (3)(D) Any publication purchased with public funds shall be the property of the court and
76 not the property of any official. Publications provided to an official without charge to the
77 state shall be the personal property of the official.

78

1 **Rule 3-413. Judicial Library Resources.**

2 **Intent:**

3 To establish minimum standards for legal reference materials to be provided to judicial and
4 quasi-judicial officers and court employees.

5 To establish acquisition, distribution and budgetary responsibilities for the legal reference
6 materials identified in this rule for the state law librarian.

7 To realize financial advantages through the use of high volume purchases of regularly used legal
8 reference materials.

9 **Applicability:**

10 This rule shall apply to the state law library, all judges and commissioners of courts of record
11 and not of record, and all court employees.

12 **Statement of the Rule:**

13 **(1) State law library.**

14 (1)(A) The state law library shall be supervised and administered by the state law
15 librarian under the general supervision of the ~~Appellate state C~~court Aadministrator.

16 (1)(B) The state law librarian shall facilitate the purchase of the electronic research
17 resources and print publications authorized by this rule and arrange to have them
18 distributed in accordance with this rule.

19 **(2) Responsibility for providing judicial library resources.**

20 **(2)(A) Electronic research resources.**

21 (2)(A)(i) The state court administrator shall provide access to approved electronic
22 research resources, including commercial legal databases.

23 (2)(A)(ii) All judges of courts of record, judges of courts not of record, court
24 commissioners, and staff attorneys shall have access to these electronic research
25 resources. Other employees may receive access to these resources based upon a
26 demonstrated need and supervisor authorization.

27 (2)(B) **Print publications.** The following officials or locations are authorized to receive
28 print publications, which shall be provided by the state court administrator, unless
29 specifically noted below, as follows:

30 (2)(B)(i) **Judges of courts of record:**

31 (2)(B)(i)(a) one set of the Utah Code Annotated, one set of the Utah Code
32 Unannotated, and one set of the Utah Court Rules Annotated; or

33 (2)(B)(i)(b) two sets of the Utah Code Unannotated and one set of the
34 Utah Court Rules Annotated.

35 (2)(B)(ii) **Court commissioners:** two sets of the Utah Code Unannotated and one
36 set of Utah Court Rules Annotated.

37 (2)(B)(iii) **Active senior judges:** one set of the Utah Code Unannotated, paid for
38 by the Administrative Office of the Courts.

39 (2)(B)(iv) **Staff attorneys:** one set of the Utah Code Unannotated and one set of
40 Utah Court Rules Annotated.

41 (2)(B)(v) **Courts without a permanently-sitting judge:** two sets of the Utah
42 Code Unannotated and one set of Utah Court Rules Annotated.

43 (2)(B)(vi) Notwithstanding paragraphs (2)(B)(i) through (2)(B)(v), beginning
44 fiscal year 2021, and until further amendment, each appellate, district, and
45 juvenile courtroom is authorized to receive a print publication set of the Utah
46 Code Unannotated, and one set of the Utah Court Rules Annotated, which shall be
47 provided by the state court administrator.

48 (2)(C) **Publisher's complimentary copies.** The publisher of the Pacific Reporter
49 currently provides complimentary volumes to appellate judges as of the date of the
50 judge's appointment to the appellate court. The state law librarian shall coordinate the
51 distribution of these materials with the judges and the publisher.

52 (2)(D) **Counties.** Each county shall provide a current copy of either the Utah Code
53 Annotated with annual updates or the softbound Utah Code Unannotated to each county
54 justice court judge serving within that county. Each county operating a court of record

55 under contract with the administrative office of the courts shall provide the judge with
56 access to the local law library pursuant to Section 78A-5-111.

57 (2)(E) **Municipalities.** Each municipality shall provide a current copy of either the Utah
58 Code Annotated with annual updates or the softbound Utah Code Unannotated to each
59 municipal justice court judge serving within that municipality. Each municipality
60 operating a court of record under contract with the administrative office of the courts
61 shall provide the judge with access to the local law library pursuant to Section 78A-5-
62 111.

63 (2)(F) **Administrative office of the courts.** The administrative office of the courts shall
64 provide a Justice Court Manual, updated biannually, to each judge of a court not of
65 record.

66 (3) **Budget Procedures.**

67 (3)(A) The state law librarian shall separately account for:

68 (3)(A)(i) the operating budget for the state law library;

69 (3)(A)(ii) the costs associated with access to electronic research resources in
70 subsection (2)(A); and

71 (3)(A)(iii) the costs associated with the purchase of print publications in
72 subsection (2)(B).

73 (3)(B) Funds appropriated or allocated for purchasing in accordance with subsections
74 (2)(A) and (2)(B) shall not be used to supplement the appropriation to the state law
75 library.

76 (3)(C) The purchase of electronic research resources and print publications to fully
77 implement the provisions of this rule shall be limited by the availability of funds.

78 (3)(D) Any publication purchased with public funds shall be the property of the court and
79 not the property of any official. Publications provided to an official without charge to the
80 state shall be the personal property of the official.

81

1 **Rule 3-413. Judicial Library Resources.**

2 **Intent:**

3 To establish minimum standards for legal reference materials to be provided to judicial and
4 quasi-judicial officers and court employees.

5 To establish acquisition, distribution and budgetary responsibilities for the legal reference
6 materials identified in this rule for the state law librarian.

7 To realize financial advantages through the use of high volume purchases of regularly used legal
8 reference materials.

9 **Applicability:**

10 This rule shall apply to the state law library, all judges and commissioners of courts of record
11 and not of record, and all court employees.

12 **Statement of the Rule:**

13 **(1) State law library.**

14 (1)(A) The state law library shall be supervised and administered by the state law
15 librarian under the general supervision of the ~~Appellate state C~~court Aadministrator.

16 (1)(B) The state law librarian shall facilitate the purchase of the electronic research
17 resources and print publications authorized by this rule and arrange to have them
18 distributed in accordance with this rule.

19 **(2) Responsibility for providing judicial library resources.**

20 **(2)(A) Electronic research resources.**

21 (2)(A)(i) The state court administrator shall provide access to approved electronic
22 research resources, including commercial legal databases.

23 (2)(A)(ii) All judges of courts of record, judges of courts not of record, court
24 commissioners, and staff attorneys shall have access to these electronic research
25 resources. Other employees may receive access to these resources based upon a
26 demonstrated need and supervisor authorization.

27 (2)(B) **Print publications for appellate, district, and juvenile courtrooms.** Each
28 appellate, district, and juvenile courtroom is~~The following officials or locations are~~
29 authorized to receive a print publication set of the Utah Code Unannotated, and one set of
30 the Utah Court Rules Annotated~~print publications~~, which shall be provided by the state
31 court administrator, ~~unless specifically noted below, as follows:~~

32 (2)(B)(i) **Judges of courts of record:**

33 (2)(B)(i)(a) ~~one set of the Utah Code Annotated, one set of the Utah Code~~
34 ~~Unannotated, and one set of the Utah Court Rules Annotated; or~~

35 (2)(B)(i)(b) ~~two sets of the Utah Code Unannotated and one set of the~~
36 ~~Utah Court Rules Annotated.~~

37 (2)(B)(ii) **Court commissioners:** ~~two sets of the Utah Code Unannotated and one~~
38 ~~set of Utah Court Rules Annotated.~~

39 (2)(B)(iii) **Active senior judges:** ~~one set of the Utah Code Unannotated, paid for~~
40 ~~by the Administrative Office of the Courts.~~

41 (2)(B)(iv) **Staff attorneys:** ~~one set of the Utah Code Unannotated and one set of~~
42 ~~Utah Court Rules Annotated.~~

43 (2)(B)(v) **Courts without a permanently sitting judge:** ~~two sets of the Utah~~
44 ~~Code Unannotated and one set of Utah Court Rules Annotated.~~

45 (2)(C) **Publisher's complimentary copies.** The publisher of the Pacific Reporter
46 currently provides complimentary volumes to appellate judges as of the date of the
47 judge's appointment to the appellate court. The state law librarian shall coordinate the
48 distribution of these materials with the judges and the publisher.

49 (2)(D) **Counties.** Each county shall provide a current copy of either the Utah Code
50 Annotated with annual updates or the softbound Utah Code Unannotated to each county
51 justice court judge serving within that county. Each county operating a court of record
52 under contract with the administrative office of the courts shall provide the judge with
53 access to the local law library pursuant to Section 78A-5-111.

54 (2)(E) **Municipalities.** Each municipality shall provide a current copy of either the Utah
55 Code Annotated with annual updates or the softbound Utah Code Unannotated to each
56 municipal justice court judge serving within that municipality. Each municipality
57 operating a court of record under contract with the administrative office of the courts
58 shall provide the judge with access to the local law library pursuant to Section 78A-5-
59 111.

60 (2)(F) **Administrative office of the courts.** The administrative office of the courts shall
61 provide a Justice Court Manual, updated biannually, to each judge of a court not of
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68 (3)(A)(iii) the costs associated with the purchase of print publications in
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70 (3)(B) Funds appropriated or allocated for purchasing in accordance with subsections
71 (2)(A) and (2)(B) shall not be used to supplement the appropriation to the state law
72 library.

73 (3)(C) The purchase of electronic research resources and print publications to fully
74 implement the provisions of this rule shall be limited by the availability of funds.

75 (3)(D) Any publication purchased with public funds shall be the property of the court and
76 not the property of any official. Publications provided to an official without charge to the
77 state shall be the personal property of the official.

78

Tab 4

JUDICIAL COUNCIL CERTIFICATION

The following court meets all required and presumptive best practices and should be recertified:

JUVENILE DRUG COURT, WEBER COUNTY, OGDEN, JUDGE NOLAND

(Was conditionally approved by the Council for 90 days on May 18, 2020. Now includes a written policy dealing with medically assisted treatment)

The following courts have issues:

JUVENILE DRUG COURT, SALT LAKE COUNTY, SALT LAKE CITY, JUDGE BECK

(Please see Judge's response to issues).

Program requires 90 days clean

Minimum length is 12 months

Court has more than 15 participants

ADULT ASAP DRUG COURT, SALT LAKE COUNTY, SALT LAKE CITY, JUDGE
BLANCH

(Please see Judge's response to issues).

Program only admits high risk; high needs participants Hearings are no less frequent than every four weeks

ADULT DRUG COURT, SALT LAKE COUNTY, SALT LAKE CITY, JUDGE SKANCHY

(Please see Judge's response to issues).

Current or prior offenses can disqualify participants

Clients are not incarcerated for clinical or social service objectives Clients are placed in the program within 50 days of arrest

New arrests, convictions, and incarcerations are monitored for at least 3 years

ADULT DRUG COURTS, SALT LAKE COUNTY, SALT LAKE CITY, JUDGES
SHAUGHNESSY AND JUDGE SCOTT

(Please see Judges' response to issues).

Eligibility and exclusion criteria are defined and applied objectively Current or prior offenses will not disqualify candidates

Non-drug charges, dealing, or violence are not excluded automatically

Policy of sanctions and incentives and therapeutic adjustments are in writing Drug tests are at least twice per week

Drug testing is random and available on weekends and holidays

Collection of test specimens is witnessed and examined for dilution and adulteration

Scientifically valid and reliable testing procedures are utilized

Participants are not incarcerated to achieve clinical or social service objective Participants receive appropriate mental health services

Each member receives training on cultural bias Testing is not scheduled in seven-day or weekly blocks Drug testing results are available within 48 hours

If use is denied a portion of the sample is available for confirmation

All team members receive formal training on trauma-informed services Clients are placed in the program within 50 days of arrest

Drug Court monitors adherence to Best Practices on an annual basis

New arrests, convictions, and incarcerations are monitored for three years

A skilled and independent evaluator examines the adherence to Best Practices

UTAH JUDICIAL COUNCIL
JUVENILE DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: Salt Lake County, Salt Lake City

NAME: BECK

REVIEW DATE: March , 2020

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The juvenile drug team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.	I.A.
X	<input type="checkbox"/>	4	Candidates for the Juvenile Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	C
X	<input type="checkbox"/>	5	Candidates for the Juvenile Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	C
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	C
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Juvenile Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Juvenile Drug Court.	D
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Juvenile Drug Court.	D
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Juvenile Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	D
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	The Juvenile Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. R BPS II D	II D
X	<input type="checkbox"/>	12	Each member of the Juvenile Drug Court team attends up-to-date training events on recognizing implicit biases and correcting disparate impacts for members of historically disadvantaged groups. R BPS II F	II F
X	<input type="checkbox"/>	13	Participants ordinarily appear before the same judge throughout their enrollment in Juvenile Drug Court. R BPS III B	III B
X	<input type="checkbox"/>	14	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for the performance are discussed by the Juvenile Drug	III D

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			Court team. R BPS III D	
X	<input type="checkbox"/>	15	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program.	III E
X	<input type="checkbox"/>	16	Status hearings are scheduled no less frequently than every four weeks until participants graduates.	III E
X	<input type="checkbox"/>	17	The judge spends an average of at least three minutes with each participant.	III F
X	<input type="checkbox"/>	18	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III G
X	<input type="checkbox"/>	19	If a participant has difficulty expressing him herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV B
X	<input type="checkbox"/>	20	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III H VIII D
X	<input type="checkbox"/>	21	The judge makes these decisions after taking into consideration the input of other Juvenile Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III H VIII D
X	<input type="checkbox"/>	22	The judge relies on the expert input of duly trained treatment professional when imposing treatment-related conditions.	III H
X	<input type="checkbox"/>	23	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV A
X	<input type="checkbox"/>	24	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and legal collateral consequences that may ensue from graduation and termination.	IV A
X	<input type="checkbox"/>	25	The Juvenile Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV A
X	<input type="checkbox"/>	26	The goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only few infractions.	IV A
X	<input type="checkbox"/>	27	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV F
X	<input type="checkbox"/>	28	Drug testing is performed at least twice a week.	VII G
X	<input type="checkbox"/>	29	Drug testing is random, and is available on weekend and holidays.	VII B
X	<input type="checkbox"/>	30	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII B

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	31	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII G
X	<input type="checkbox"/>	32	The Juvenile Drug Court utilizes scientifically and valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII G
X	<input type="checkbox"/>	33	Metabolite levels falling below industry-or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII I
X	<input type="checkbox"/>	34	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII I
	X	35	The program requires at least 90 days clean to graduate.	
	X	36	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	37	Unless a participant poses an immediate risk to public safety, detention sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV J
X	<input type="checkbox"/>	38	Detention sanctions are definite in duration and typically last no more than three to five days.	IV J
X	<input type="checkbox"/>	39	Participants are given access to counsel and a fair hearing if a detention sanction might be imposed.	IV J
X	<input type="checkbox"/>	40	Participants are not terminated from Juvenile Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV K
X	<input type="checkbox"/>	41	If a participant is terminated from the Juvenile Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. R BPS* IV K	V.I.
X	<input type="checkbox"/>	42	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services.	V B
X	<input type="checkbox"/>	43	Treatment providers are licensed or certified to deliver substance abuse treatment. R BPS V H	V H
X	<input type="checkbox"/>	44	Participants are not excluded from participation in DUI Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V J
X	<input type="checkbox"/>	46	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each staffing meeting. R BPS VII A*	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each Juvenile Drug Court session.	VII A
X	<input type="checkbox"/>	48	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII B
X	<input type="checkbox"/>	49	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VII C

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	50	Court fees are reasonable and based on each participant's ability to pay.	
X	<input type="checkbox"/>	51	Treatment fees are based on a sliding fee schedule.	
X	<input type="checkbox"/>	52	A skilled and independent evaluator examines the drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X D
X	<input type="checkbox"/>	53	The Juvenile Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X D

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I A
X	<input type="checkbox"/>	2	The program admits only participants who are high risk need as measure by a validated risk and need assessment tool.	I B
X	<input type="checkbox"/>	3	The Juvenile Drug Court attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, and evidence-based substance abuse and mental health treatment, behavior modification and community supervision.	III A
X	<input type="checkbox"/>	4	The judge presides over the Juvenile Drug Court for no less than two consecutive years.	III B
X	<input type="checkbox"/>	5	The Juvenile Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV F
X	<input type="checkbox"/>	6	Phase promotion is predicted on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time	IV I
X	<input type="checkbox"/>	7	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV I
X	<input type="checkbox"/>	8	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII B
X	<input type="checkbox"/>	9	Drug Testing results are available within 48 hours.	VII H
X	<input type="checkbox"/>	10	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII D
X	<input type="checkbox"/>	11	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS).	VII G
X	<input type="checkbox"/>	12	Standardized patient placement criteria govern the level of care that is provided.	V A
X	<input type="checkbox"/>	13	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Juvenile Drug Court's programmatic phase structure.	V A
X	<input type="checkbox"/>	14	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V D

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	15	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V E
X	<input type="checkbox"/>	16	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V F
X	<input type="checkbox"/>	17	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V H
X	<input type="checkbox"/>	18	Participants suffering from mental illness receive mental health services beginning in the first phase of Juvenile Drug Court and continuing as needed throughout their enrollment in the program.	V I
X	<input type="checkbox"/>	19	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	V I L
X	<input type="checkbox"/>	20	Clients are placed in the program within 50 days of screening for eligibility.	
X	<input type="checkbox"/>	21	Team members are assigned to Juvenile Drug Court for no less than two years.	
X	<input type="checkbox"/>	22	All team members use electronic communication to contemporaneously communicate about Juvenile Drug Court issues.	
X	<input type="checkbox"/>	23	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Juvenile Drug Courts.	VIII F
X	<input type="checkbox"/>	24	New staff hires receive a formal orientation training on the Juvenile Drug Court model and best practices in DUI Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII F
	X	25	The Juvenile Drug Court has more than 15 but less than 125 active participants.	IX C
X	<input type="checkbox"/>	26	The Juvenile Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X A
X	<input type="checkbox"/>	27	New referrals, new arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Juvenile Drug Court.	X C
X	<input type="checkbox"/>	28	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X G
X	<input type="checkbox"/>	29	The program conducts an exit interview for self-improvement.	

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Juvenile Drug Court regularly monitor whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II B XE

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	2	The Juvenile Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, day treatment, intensive outpatient and outpatient services.	V B
X	<input type="checkbox"/>	3	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V E
X	<input type="checkbox"/>	4	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V E
X	<input type="checkbox"/>	5	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the juvenile justice system.	V F
X	<input type="checkbox"/>	6	Treatment providers have substantial experience working with juvenile justice populations.	V H
X	<input type="checkbox"/>	7	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Juvenile Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), other major anxiety disorders.	VI E
X	<input type="checkbox"/>	8	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI F
X	<input type="checkbox"/>	9	Female participants receive trauma-related services in gender-specific groups.	VI F
X	<input type="checkbox"/>	10	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI F
X	<input type="checkbox"/>	11	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group, as appropriate, after their discharge from the Juvenile Drug Court.	VJ
X	<input type="checkbox"/>	12	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	VJ
X	<input type="checkbox"/>	13	Before starting a Juvenile Drug Court, team members attend a formal pre-implantation training to learn from expert faculty about best practices in Juvenile Drug Courts and develop fair and effective policies and procedures for the program.	VII F
X	<input type="checkbox"/>	14	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicted complementary services.	X
X	<input type="checkbox"/>	15	Information relating to the services provided and participant' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Juvenile Drug Court's adherence to best practices and in-program outcomes.	X F
X	<input type="checkbox"/>	16	Outcomes are examined for all eligible participants who entered the Juvenile Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. B BPS X H	X H



UTAH PROBLEM-SOLVING COURT REQUEST FOR WAIVER OF PRESUMED CERTIFICATION CRITERIA

PROBLEM-SOLVING COURT INFORMATION

Name of Judge: Judge Beck

Type of Court: Juvenile Drug Treatment Court

Location of Court: Matheson

Date: May 28, 2020

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #1

Requirement: *Programs have a written policy addressing medically assisted treatment*

Reason for non-compliance: *Policy has been written, adopted and emailed to Judge Fuchs on March 9th.*

Anticipated compliance date or reason as to why compliance cannot be met: *Compliance has been met (see attached).*

Permanent or Temporary Waiver Request: *N/A*

Compensating measures: *N/A*

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #2

Requirement: *Programs require at least 90 days clean to graduate*

Reason for non-compliance: *JDTC youth often graduate treatment prior to achieving 90 days clean. This occurs generally within the 4-6 month statutory timeline. In addition, if the youth is in compliance with the program other than 90 days clean, the presumptive guidelines will not be extended. When a participant has completed treatment and has met phase requirements there are no outstanding fines/community services hours or new referrals and per treatment provider, no longer a need for ongoing treatment. The youth may be testing drug free, but has not met the 90 day benchmark.*

Anticipated compliance date or reason as to why compliance cannot be met: *Youth that have graduated from the program have completed treatment and do not meet the standards for the guidelines to be extended to meet the 90 days clean requirement.*

Permanent or Temporary Waiver Request: *Waiver Request*

Compensating measures: *If youth have not met this requirement, have completed treatment and successfully met phase advancements, a staffing with the team will determine if the youth will complete the program, rather than graduate.*

REQUIRED OR PRESUMED CERTIFICATION CRITERIA NON-COMPLIANCE ISSUE #3

Requirement: *The minimum length of the program is 12 months*

Reason for non-compliance: *Due to HB 239, presumptive time lines for youth on probation are 4-6 months. Although the presumptive guidelines can be extended due to ongoing treatment, our youth often graduate from treatment within that time period. The program*

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

Participants have the option of exploring Medication-Assisted Treatment (MAT) as a therapeutic option and as part of their individualized substance use treatment plan. MAT services will be administered and managed under the direct supervision of a MAT provider that is certified by the Substance Abuse and Mental Health Services Administration (SAMHSA). The participant must take the following steps prior to beginning the MAT regimen:

- a. The participant will meet with the provider to discuss MAT requirements, restrictions and sign a Release of Information;
- b. Upon request by the drug court team, the provider will provide status updates;
- c. Any non-compliance due to the misuse of the MAT medication may result in sanctions imposed by the court, including the possibility of termination from the Drug Court Program;
- d. If at any point while in the drug court program a participant wishes to cease their MAT regimen they must discuss a taper and receive authorization from the provider.

**UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST**

REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: Salt Lake County, Salt Lake City

JUDGE NAME: SHAUGHNESSY

REVIEW DATE: February, 2020

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	X	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	X	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
X	X	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	X	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X		24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	X	25	Drug testing is performed at least twice per week.	VII.A.*
X	X	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	X	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	X	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	X	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X		39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	X	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	X	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	X	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	X	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
X	X	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
<input type="checkbox"/>	X	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	X	30	Clients are placed in the program within 50 days of arrest.	
X	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
X	X	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	X	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input type="checkbox"/>	X	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	X	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		#	YES	NO
<p><i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i></p>				
VI.F.	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	6	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI.F.	Female participants receive trauma-related services in gender-specific groups.	7	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI.I.	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	8	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VI.J.	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	9	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VIII.F.	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	10	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IX.B.	Supervision caseloads do not exceed fifty active participants per supervision officer.	11	<input type="checkbox"/>	<input checked="" type="checkbox"/>
IX.C.	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	12	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X.B.*	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	13	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X.F.	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	14	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
X.H.	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	15	<input checked="" type="checkbox"/>	<input type="checkbox"/>
II.B.	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	16	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ADDENDUM

Drug Court Certification Checklist

Third District Court, Judge Shaughnessy

Required Certification Criteria

Questions 1, 2, 7, 8: Our court has discussed these questions with the stakeholders and determined that there are three changes to the Policy & Procedures Manual and current practices that are necessary to fully comply with these criteria. First, Salt Lake County Drug Courts historically have observed an offense-based exclusion for felony DUIs and that exclusion is set forth in the policy manual. The District Attorney's office has agreed to remove this exclusion. With that change, there will be no offense-based exclusions to participation. Second, the policy manual will be revised to affirmatively state that current or prior offenses will not automatically disqualify candidates from participation, but applicants may be denied if the District Attorney's office concludes, based on an individual evaluation of the applicant, including the applicant's criminal history and current charges, that he or she presents a risk of harm to other participants, to treatment providers, or to drug court team members. Third, the policy manual will be revised to reflect that the final decision whether to admit a participant will be made by a central screening group and not by the assigned prosecutor. The assigned prosecutor's input will be considered, but that person's consent will not be required.

The Policy & Procedure Manual will be revised to reflect these changes through the normal revision process over the next several months. The DA's and LDA's offices will make prosecutors and defense attorneys aware of these changes. Once these changes are fully implemented, our court will be in compliance with these criteria.

Question 20: Due to the somewhat unique way in which participants enter the ORG drug court, not all of them are given a full orientation prior to pleading in. To address these shortcomings, when defendants enter ORG drug court from jail, we do the following: (1) have a law enforcement orientation that takes place on the first or second court appearance; (2) a fuller though not complete orientation will be performed by the case manager when the defendant first appears in court out of custody; and (3) the case manager will perform a complete orientation after the defendant has been removed from any blackout period imposed by a residential treatment facility. The final orientation will not occur until after the defendant has pled in, but we believe the orientations that are provided, along with allowing them to participate for a few weeks prior to plea, provides them sufficient information to make a knowing and voluntary decision to participate.

Questions 25-28: For drug testing in our court we rely on two different sets of providers. The county has a contracted drug testing agency where some of our participants – mainly those who are receiving outpatient treatment or who are in the final phases of the program – do drug testing. We also have participants who are in residential treatment or who are otherwise testing through an outside treatment provider, typically though not always a provider who has a contract with Salt Lake County.

The county's contracted drug testing facility rigorously follows industry standards and best practices and we have a very high degree of confidence that all necessary procedures and all best practice standards are being followed. Unfortunately, the same is not true of testing done at residential or other treatment providers. The quality of the testing at these locations is uneven and we cannot say with confidence that these providers consistently follow best practices. At various times information has come to our attention demonstrating they are not. We work diligently on correcting these problems when they come to our attention. If a treatment facility is unwilling to meet our requirements, we stop sending participants to those facilities and have, on occasion, removed participants from those facilities due to non-compliance with our testing standards. Most of these facilities have contracts with Salt Lake County and are required by contract to adhere to our standards. When information is brought to our attention that these standards are not being followed, we rely on county personnel to intervene and correct the deficiencies and they have been successful in doing so. This is and will continue to be an issue as long as we have participants testing at these locations. Unfortunately, due to funding limitations, we are unable to have all participants test through the county testing provider but are working on a possible long-term solution to this problem.

Question 38: We do not use jail for purposes of detoxification unless all community-based detoxification facilities are full and the participant presents an immediate safety risk. In those rare instances, we may use jail for a brief period of time until a detox bed can be secured. We also occasionally use the CATS program, an in-custody behavioral therapy program, for individuals who have demonstrated an inability to engage in community-based treatment by repeatedly leaving treatment against clinical advice.

Question 45: There is a serious, systemic shortage of integrated treatment resources in our community. These systemic limitations impede our ability to provide a complete range of mental health services to participants, throughout their participation in drug court. Our court makes use, to the greatest extent possible, of those resources that are available in the community to provide the best care we can under the circumstances, but virtually all of our participants need mental health services to some degree and we cannot state that all drug court participants are able to get all treatment that may be indicated.

Presumed Certification Criteria

Question 3: We have not all participated in this type of training but recognize the critical need to do so. We have asked our county Criminal Justice Services division to assist in lining up training for all of our team members.

Questions 10-11, 14: See Questions 25-28 above. Again, for participants testing at locations other than our county contracted provider, we cannot guarantee adherence to these standards. Additionally, even when providers meet these standards, they are not always making results available within 48 hours. We are working to improve and, hopefully, fully automate the system so that drug test results will be immediately available.

Question 27: Some but not all of our team members have received formal training on trauma-informed services. In particular, our attorneys, court teams, and bailiffs have not received this training and we need to do this. We have asked our county Criminal Justice Services division to assist in lining up training for all remaining team members and personnel on this topic.

Question 30: Participants enter our program in a variety of ways and not all of them involve placement within 50 days of arrest. Probationers, for example, enter the program many months, sometimes years, after their arrest on the underlying offense. Additionally, offenders who are prefile released (released because the State did not file charges within 3 business days of arrest) and offenders who are released from the jail based on overcrowding typically are not placed in the program within 50 days of arrest. In Salt Lake County, we have significant numbers of offenders who are prefile or overcrowd released. Even individuals who are not prefile or overcrowd released may not always be placed within 50 days of arrest – if, for example, the lawyers involved do not refer the person for screening until later stages of the case, which happens occasionally. However, once an application is filed, individuals are screened and accepted into drug court within approximately three weeks. So non-probationer offenders who are not prefile or overcrowd released, and who apply at the time of their first appearance, will be placed in the program in far less than 50 days from their arrest.

Question 36: Best practice standards are a subject of constant review and conversation in our drug court. However, certification occurs every other year, not every year, and we do not otherwise have a formal review process to determine if we are adhering to best practice standards.

Question 37: We have an informal process for checking on new cases for drug court graduates, but we do not have a formal process for reviewing all new arrest, new convictions, and new incarcerations. We have tasked our drug court review team with developing such a program.

Question 38: To the extent this question contemplates an *independent* evaluator – namely, someone independent from the courts or the county – then the answer to this question is no. Our drug courts have not undergone a truly outside evaluation for more years than anyone can remember. However, to the extent certification by the Judicial Council satisfies this standard, the answer is yes.

Non-Certification Related Best Practices

Question 14: The answer to the first sentence is yes. The answer to the second is no.

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: Salt Lake County, Salt Lake City

JUDGE NAME: SCOTT

REVIEW DATE: March, 2020

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively. **	I.A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing. **	I.A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. **	I.D.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. **	I.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	X	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable. **	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	X	25	Drug testing is performed at least twice per week. **	VII.A.*
X	X	26	Drug testing is random, and is available on weekends and holidays. **	VII.B.*
X	X	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **	VII.E* VII.F.*
X	X	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	X	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. **	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	X	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. **	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	X	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **	II.F.
X	X	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	X	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **	VII.B.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	X	11	Drug test results are available within 48 hours. **	VII.H.
<input type="checkbox"/>	X	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **	VII.B.
<input type="checkbox"/>	X	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. **	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	X	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	X	30	Clients are placed in the program within 50 days of arrest. **	
X	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
X	X	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **	VIII.F.
X	X	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **	VIII.F.
X	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
X	X	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **	X.A.
<input type="checkbox"/>	X	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court. **	X.C.
<input type="checkbox"/>	X	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	X	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
<input type="checkbox"/>	X	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
<input type="checkbox"/>	X	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	X	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	X	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

ADDENDUM

Drug Court Certification Checklist

Third Judicial District Court, Judge Laura S. Scott

Required Certification Criteria

Questions 1, 2, 7, 8: It is our understanding that over the course of the next several months, three changes will be made to bring our court into compliance with these criteria. First, the Salt Lake County District Attorney's Office will remove the offense-based exclusion for felony DUIs. Second, the Salt Lake County Third District Drug Court Policy and Procedures Manual (Policy Manual) will be revised to affirmatively state that current or prior offenses will not automatically disqualify an applicant from participation, but an application may be denied if the District Attorney's Office concludes, based on an individual evaluation of the applicant, including the applicant's criminal history and current charges, that he or she presents a risk of harm to other participants, to treatment providers, or to drug court team members. Third, the Policy Manual will be revised to reflect that the final decision whether to admit an applicant will be made by a central screening group and not the assigned prosecutor. While the assigned prosecutor's input will be considered, his or her consent will not be required.

Question 14: Participants in Phase 5 attend status hearings every six weeks.

Question 25: Drug testing is not performed at least twice a week for participants in Phase 5.

Questions 25-28: Averhealth rigorously follows industry standards and best practices and we have a high degree of confidence that they implement all necessary procedures and follow all best practice standards. Unfortunately, the same is not true of testing done at residential or other treatment providers. The quality of the testing at these providers is uneven and we cannot say with confidence that they consistently follow best practices. Over the past two years, we have encountered issues with frequency, randomness, observation, timely reporting of positives, and most recently, numerous excused but unexplained misses. We have relied on Salt Lake County personnel to address these issues directly with the providers.

Question 34, 38: We do not use jail to achieve clinical or social services objections. Before resorting to jail, we use other available resources such as ankle monitor, home arrest, sober living assistance, and VOA detox. We do not use jail for purposes of detoxification unless all community-based detoxification facilities are full and the participant presents an immediate safety risk. In those rare instances, we may use jail

for a brief period of time until a detox bed can be secured. We also occasionally use the CATS program, an in-custody behavioral therapy program, for individuals who have demonstrated an inability to engage in community-based treatment by repeatedly leaving treatment against clinical advice, and the 30-day MAT program. On occasion, a participant may receive a jail sanction that lasts longer than five days. This typically occurs when the participant is picked up on a drug court bench warrant and a clinical reassessment is performed in custody. If the participant is reassessed for residential treatment, he or she usually waits in custody until a bed is available.

Question 45: There is a serious, systemic shortage of integrated treatment resources in our community. These systemic limitations impede our ability to provide a complete range of mental health services to participants throughout their participation in drug court. Our court makes use, to the greatest extent possible, of those resources that are available in the community to provide the best care we can under the circumstances, but many of our participants need mental health services and we cannot state that all drug court participants are able to get all treatment that may be indicated.

Presumed Certification Criteria

Question 3: We have not all participated in this type of training but recognize the critical need to do so. For the judicial team, please see response to Question 4.

Question 4, 33, 34: Prior to taking over Judge Bernards-Goodman's drug court, I was not provided with any training. Approximately 6 months after taking over the calendar, I was able to attend the NADCP conference, which was very helpful. My judicial team has not been provided with any formal training and there were no available slots at the last bi-annual Utah Statewide Drug Court Conference for them. It would be helpful if the Judicial Council provided additional training resources to specialty court judges and their judicial teams, especially during the first and second years. Such additional resources may include creating a separate continuing education budget to be used for attendance at the NADCP conference, allowing judges to use their judicial operations budget for the NADCP conference, and expanding the number of slots at the bi-annual conference so that all team members can attend.

Questions 10-11, 14: See Questions 25-28 above. Again, for participants testing at providers other than Averhealth, we cannot guarantee adherence to these standards. Additionally, even when providers meet these standards, they are not always making results available within 48 hours.

Question 12: On weekdays, a participant could call Averhealth before 7:00 a.m. and not test until 5:30 p.m.

Question 27: Some but not all of our team members have received formal training on trauma-informed services. In particular, our attorneys, judicial teams, and bailiffs have not received this training and we need to do this.

Question 30: Participants enter our program in a variety of ways and not all of them involve placement within 50 days of arrest. Probationers, for example, enter the program many months, sometimes years, after their arrest on the underlying offense. Additionally, offenders who are prefile released and offenders who are released from the jail based on overcrowding typically are not placed in the program within 50 days of arrest.

Question 36: Best practice standards are a subject of constant review and conversation in our drug court. However, certification occurs every other year, not every year, and we do not otherwise have a formal review process to determine if we are adhering to best practice standards.

Question 37: We have an informal process for checking on new cases for drug court graduates, but we do not have a formal process for reviewing all new arrest, new convictions, and new incarcerations.

Question 38: To the extent this question contemplates an *independent* evaluator – namely, someone independent from the courts or Salt Lake County – then the answer to this question is no. However, to the extent certification by the Judicial Council satisfies this standard, the answer is yes.

Non-Certification Related Best Practices

Question 14: The answer to the first sentence is yes. The answer to the second is no.

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: SALT LAKE COUNTY, SALT LAKE CITY _____

JUDGE NAME: SKANCHY _____

REVIEW DATE: FEBRUARY 2020 _____

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	X	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards, is required for certification.</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
<input type="checkbox"/>	X	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS	
YES	NO	#	BPS
		<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.
<input type="checkbox"/>	X	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.
<input type="checkbox"/>	X	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.

March 6, 2020

Senior Judge Dennis Fuchs
Problem Solving Courts Coordinator
450 South State Street
Salt Lake City UT 84114

Re: Judge Skanchy's Third District Drug Court Certification

Dear Judge Fuchs:

Pursuant to your letter request of February 27, 2020, the following are our Court's responses to your non-compliance designation of our program. I note as a disclaimer that the Certification Criteria was a response from solely Judge Skanchy's Drug Court in the Matheson Courthouse. While all of our Courts adhere to our Salt Lake County Third District Drug Court Policy and Procedures Manual ("3rd District PPM"), there are variations in application, I assume, from Court to Court. Accordingly, unless I state otherwise our response to the certification questions may or may not differ depending on the individual Court practices.

1. **Required Certification Criteria No. 7 (R)**

Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.

Response: The only categorical exclusions for the Third District Drug Courts are twofold:

- (i) "Applicant has a history of sex offenses or has pending offenses that would make them a registered sex offender if convicted." (3rd District PPM Exclusion 1); and
- (ii) Applicant has been convicted of three (3) DUI or lesser offenses within the past ten (10) years; or has been convicted of two (2) DUI or lesser included offenses within the past ten (10) years and has a third pending DUI charge; or has a felony DUI charge pending. (3rd District PPM Exclusion 5)

As to the DUI exclusion, this position has previously been taken by the Salt Lake County District Attorney's Office ("DA"). Recent discussions with the DA's office have resulted in this

As to sex offenders, the Court does exclude individuals with sex offense histories. This Court is unaware of any empirical studies that such individuals could be safely or effectively managed in a Drug Court setting. This policy is applicable to all of Third District Drug Courts.

2. Required Certification Criteria No. 38 (R)

Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.

Response: Incarceration is not used to achieve clinical or social services objectives in our Court. Salt Lake County is fortunate to have extended resources to address our needs such as the Volunteers of American Detoxification program (“VOA Detox”), our own use of ankle monitors, home confinement, sober living assistance, and heightened law enforcement supervision. We only use incarceration as a “last resort” for the personal safety of the individual. We do find that as a last resort, such as when a Drug Court client leaves a program, turns up high from extended relapse, and then leaves home confinement or VOA Detox, we may use incarceration to help us establish a safe alternative than ongoing unsupervised relapse in the community. Additionally, a client may be required to complete the Adult Detention Center’s in custody treatment programs such as CATS, a 90-day in custody program, or the 30-day medically assisted treatment program to arrange for medically assisted treatment. One benefit of these programs is that the after care options for these programs include housing and medication assistance, which provides a client with services we might not have readily available.

Finally, the most typical instance in which a person may have more than a two or three-day jail sanction in our Court is when they have been on the run from our programs for thirty plus days, and are picked up on new charges, or our own Drug Court warrants. They have usually been gone from treatment for several months, and we undertake clinical reassessment while in custody to determine an appropriate level of care, which may direct them to a residential level of care. A clinical assessment ideally may take a week in custody. A residential level of care designation may require the Drug Court client to wait in custody until bed space becomes available at a residential treatment level, assuming we have exhausted all other available safe options for release back into the community.

Given those practical considerations on treatment, continuation and the safety of the client, we could not answer YES to this question. However, we do not view incarceration as a clinical or social service objective.

3. Presumed Certification Criteria #30 (P)

Clients are placed in the program within fifty days of arrest.

Response: Our time from referral into the Court to acceptance or rejection is typically three weeks. We do not control how long a Drug Court applicant may have been in custody prior to application to Drug Court, as that is a private or public defense counsel’s and the respective individual client’s determination of whether they are willing and should consider Drug Court as an alternative to a regular criminal defense. We have held trainings for defense counsel in this area on the application process, encouraged their use of the Drug Court program, but have not been able to control how an individual lawyer and their respective client may process whether Drug Court is an option they wish to pursue.

4. Presumed Certification Criteria #37 (P)

New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant’s entry into the Drug Court.

Response: We are not presently doing this. We have been in discussion with Salt Lake County Criminal Justice Services and the Salt Lake County Criminal Justice Advisory Committee ("CCJAC") on resources we can employ to start an evaluative process as this question requests. This is a task we are presently undertaking with our Drug Court stakeholders. This has proven problematic as the Bureau of Criminal Identifications will not release information on anyone not currently in Drug Court to us. Noella Sudbury of CCJAC was overseeing this effort to negotiate a pathway to clear this hurdle. She left CCJAC in the summer and her replacement is picking this up. Salt Lake County Criminal Justice Services is pursuing this within CCJAC. This also is applicable to all Third District Drug Courts.

Judge Fuchs, if there is more information you or the Council may need or direction you suggest we implement to meet your expectations, please let us know. We are very proud of our Drug Court and its accomplishments over the last twenty-four years of its existence. As of January 29, 2020, the Salt Lake County's Drug Court programs have had 3,296 successful individuals finish this program. These include individuals who have gone on to obtain college graduate and undergraduate degrees, own successful businesses, become productive members of the community, and achieve personal goals they never expected to accomplish. We are most

appreciative of Salt Lake County and the Administrative Office of the Court's efforts to support us in this wonderful work.

Sincerely,

Randall N. Skanchy
District Court Judge

RNS:ss

cc: Jennifer Mitchell
Debra Kreeck-Mendez
Kele Griffone
Judge Todd Shaughnessy
Judge Laura Scott
Judge Douglas Hogan
Judge James Blanch

UTAH JUDICIAL COUNCIL
ADULT DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED DECEMBER 16, 2019

COURT LOCATION: Salt Lake County, Salt Lake City (ASAP) _____

JUDGE NAME: BLANCH _____

REVIEW DATE: February, 2020 _____

Many of the criteria enumerated in this certification checklist are restatements of the Adult Drug Court Best Practice Standards, Volume I and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a citation in the BPS column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
<input type="checkbox"/>	X	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input checked="" type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E.* VII.F.*
<input checked="" type="checkbox"/>	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Drug Court session.	VIII.A.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*

YES NO		PRESUMED CERTIFICATION CRITERIA		BPS
		#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	
X		11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
X	<input type="checkbox"/>	31	Team members are assigned to Drug Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input type="checkbox"/>	X	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.

YES NO		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
#		<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS	
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
X	<input type="checkbox"/>	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

ADDENDUM

ASAP Court Certification Checklist

Third District Court, Judge Blanch

Some of the answers in the certification checklist are checked either “yes” or “no,” but require some qualification or explanation. These explanations are set forth below.

Required Certification Criteria

Question 3: ASAP is an alternative-track to Drug Court that is designed for participants who do not assess as high risk but instead fall within a lower risk level. Accordingly, none of the ASAP clients assess as high risk, which is by design.

Question 14: Clients in the final phase of ASAP are scheduled to appear for review hearings only every six weeks, unless there are compliance issues or other reasons we need to see them more frequently. This aspect of the ASAP program flows from the evidence-based observation that criminal defendants falling into lower risk categories do better when they come to court less frequently.

Questions 25-28: We require all of our ASAP clients to test through Averhealth, which a testing facility under contract with Salt Lake County, because we are confident Averhealth follows the practices we require, with the possible exception that there may be a lower percentage likelihood that a client will have to test at Averhealth on a weekend or holiday. Many of the ASAP clients are also engaged in treatment programs that require them to test, and those clients comply with their treatment programs’ testing requirements as well. Combined, there is a statistically significant probability that any client will have to test at least, and sometimes more often, on any given day.

Question 34: We do not issue routine jail sanctions that exceed three to five days. Occasionally a client will commit a significant new offense that will likely result in his or her expulsion from the program. In such circumstances, we sometimes will hold a client in jail for a longer period while the OSC is addressed. Also, although we not view this as a sanction, some clients are necessarily detained for a longer period while we work as diligently as we can to find a safe and sober housing option for the client. See response to Question 38 below.

Question 38: We do not use jail for purposes of detoxification unless all community-based detoxification facilities are full and the participant presents an immediate safety risk. In those rare instances, we may use jail for a brief period of time until a detox bed can be secured. We also occasionally use the CATS program, an in-custody behavioral therapy program, for

individuals who have demonstrated an inability to engage in community-based treatment by repeatedly leaving treatment against clinical advice.

Question 45: We do not directly furnish mental-health services to ASAP clients, but we ensure ASAP clients are referred to appropriate mental health professionals when they require such treatment, and we monitor their compliance with this treatment. Although there is a serious, systemic shortage of integrated treatment resources in our community, many ASAP clients have insurance, and we've had good success in most cases using resources that are available in the community to provide the best care we can under the circumstances. Fortunately, we've had better success in ASAP than some of the other specialty courts have experienced ensuring our clients are received the mental health services they need.

Presumed Certification Criteria

Question 3: Most, but not all, of our team members have participated in this kind of training. We recognize the critical need to do so and will endeavor to ensure all team members have received appropriate training on implicit bias.

Questions 10-11, 14: See Questions 25-28, above. During the COVID-19 pandemic, we have encountered difficulty regularly receiving test results within 48 hours.

Question 27: Some but not all of our team members have received formal training on trauma-informed services. The judge, case managers, and therapists have received such training. We recognize the importance of such training, and our county Criminal Justice Services division has been asked to assist in lining up training for team members in the specialty courts.

Question 30: Participants are usually placed in our program within 50 days of arrest. Sometimes, however, individuals are assessed for potential participation in ASAP at a later time. For example, sometimes individuals are not screened as potential ASAP participants until they have demonstrated poor performance on regular probation. Also, some clients are referred to ASAP from Drug Court when it appears they do not fall within the high-risk criterion necessary for Drug Court participation. In the large majority of circumstances, however, clients are placed within 50 days after arrest. Our time from referral into the court to acceptance or rejection is typically approximately three weeks. We do not control how much time has elapsed prior an ASAP referral, as that is a private or public defense counsel's and the respective individual client's determination of whether they are willing and should consider ASAP as an alternative to a regular criminal defense. We have held trainings for defense counsel and prosecutors in this area on the application process, encouraged their use of the ASAP program,

but have not been able to control how an individual lawyer and their respective client may process whether ASAP is an option they wish to pursue.

Question 36: Best practice standards are a subject of constant review and conversation in our drug court. However, certification occurs every other year, not every year, and we do not otherwise have a formal review process to determine if we are adhering to best practice standards.

Question 38: I believe the answer to this question is yes due to the Judicial Council's certification requirements.

Non-Certification Related Best Practices

Question 14: The answer to the first sentence is yes. The answer to the second is no.

UTAH JUDICIAL COUNCIL
JUVENILE DRUG COURT CERTIFICATION CHECKLIST
 REVISED AND ADOPTED 2020

COURT LOCATION: WEBER COUNTY, OGDEN

NAME: JUDGE NOLAND

REVIEW DATE: JANUARY, 2020

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The juvenile drug team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.	I.A.
X	<input type="checkbox"/>	4	Candidates for the Juvenile Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	C
X	<input type="checkbox"/>	5	Candidates for the Juvenile Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	C
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	C
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Juvenile Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Juvenile Drug Court.	D
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Juvenile Drug Court.	D
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Juvenile Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	D
<input type="checkbox"/>	X	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	The Juvenile Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. R BPS II D	II D
X	<input type="checkbox"/>	12	Each member of the Juvenile Drug Court team attends up-to-date training events on recognizing implicit biases and correcting disparate impacts for members of historically disadvantaged groups. R BPS II F	II F
X	<input type="checkbox"/>	13	Participants ordinarily appear before the same judge throughout their enrollment in Juvenile Drug Court. R BPS III B	III B
X	<input type="checkbox"/>	14	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for the performance are discussed by the Juvenile Drug	III D

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			Court team. R BPS III D	
X	<input type="checkbox"/>	15	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program.	III E
X	<input type="checkbox"/>	16	Status hearings are scheduled no less frequently than every four weeks until participants graduates.	III E
X	<input type="checkbox"/>	17	The judge spends an average of at least three minutes with each participant.	III F
X	<input type="checkbox"/>	18	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III G
X	<input type="checkbox"/>	19	If a participant has difficulty expressing him herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV B
X	<input type="checkbox"/>	20	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III H VIII D
X	<input type="checkbox"/>	21	The judge makes these decisions after taking into consideration the input of other Juvenile Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III H VIII D
X	<input type="checkbox"/>	22	The judge relies on the expert input of duly trained treatment professional when imposing treatment-related conditions.	III H
X	<input type="checkbox"/>	23	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV A
X	<input type="checkbox"/>	24	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and legal collateral consequences that may ensue from graduation and termination.	IV A
X	<input type="checkbox"/>	25	The Juvenile Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV A
X	<input type="checkbox"/>	26	The goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only few infractions.	IV A
X	<input type="checkbox"/>	27	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV F
X	<input type="checkbox"/>	28	Drug testing is performed at least twice a week.	VII G
X	<input type="checkbox"/>	29	Drug testing is random, and is available on weekend and holidays.	VII B
X	<input type="checkbox"/>	30	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII B

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification</i>	BPS
X	<input type="checkbox"/>	31	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII G
X	<input type="checkbox"/>	32	The Juvenile Drug Court utilizes scientifically and valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII G
X	<input type="checkbox"/>	33	Metabolite levels falling below industry-or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII I
X	<input type="checkbox"/>	34	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII I
X	<input type="checkbox"/>	35	The program requires at least 90 days clean to graduate.	
X	<input type="checkbox"/>	36	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	37	Unless a participant poses an immediate risk to public safety, detention sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV J
X	<input type="checkbox"/>	38	Detention sanctions are definite in duration and typically last no more than three to five days.	IV J
X	<input type="checkbox"/>	39	Participants are given access to counsel and a fair hearing if a detention sanction might be imposed.	IV J
X	<input type="checkbox"/>	40	Participants are not terminated from Juvenile Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV K
X	<input type="checkbox"/>	41	If a participant is terminated from the Juvenile Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. R BPS* IV K	V.I.
X	<input type="checkbox"/>	42	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services.	V B
X	<input type="checkbox"/>	43	Treatment providers are licensed or certified to deliver substance abuse treatment. R BPS V H	V H
X	<input type="checkbox"/>	44	Participants are not excluded from participation in DUI Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V J
X	<input type="checkbox"/>	46	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each staffing meeting. R BPS VII A*	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement/probation and the judge attend each Juvenile Drug Court session.	VII A
X	<input type="checkbox"/>	48	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII B
X	<input type="checkbox"/>	49	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VII C

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	50	Court fees are reasonable and based on each participant's ability to pay.	
X	<input type="checkbox"/>	51	Treatment fees are based on a sliding fee schedule.	
X	<input type="checkbox"/>	52	A skilled and independent evaluator examines the drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X D
X	<input type="checkbox"/>	53	The Juvenile Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X D

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I A
X	<input type="checkbox"/>	2	The program admits only participants who are high risk need as measure by a validated risk and need assessment tool.	I B
X	<input type="checkbox"/>	3	The Juvenile Drug Court attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, and evidence-based substance abuse and mental health treatment, behavior modification and community supervision.	III A
X	<input type="checkbox"/>	4	The judge presides over the Juvenile Drug Court for no less than two consecutive years.	III B
X	<input type="checkbox"/>	5	The Juvenile Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medially safe alternative treatments are available.	IV F
X	<input type="checkbox"/>	6	Phase promotion is predicted on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time	IV I
X	<input type="checkbox"/>	7	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV I
X	<input type="checkbox"/>	8	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII B
X	<input type="checkbox"/>	9	Drug Testing results are available within 48 hours.	VII H
X	<input type="checkbox"/>	10	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII D
X	<input type="checkbox"/>	11	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS).	VII G
X	<input type="checkbox"/>	12	Standardized patient placement criteria govern the level of care that is provided.	V A
X	<input type="checkbox"/>	13	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Juvenile Drug Court's programmatic phase structure.	V A
X	<input type="checkbox"/>	14	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V D

		PRESUMED CERTIFICATION CRITERIA		
YES	NO	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	15	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V E
X	<input type="checkbox"/>	16	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V F
X	<input type="checkbox"/>	17	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V H
X	<input type="checkbox"/>	18	Participants suffering from mental illness receive mental health services beginning in the first phase of Juvenile Drug Court and continuing as needed throughout their enrollment in the program.	V I
X	<input type="checkbox"/>	19	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI L
X	<input type="checkbox"/>	20	Clients are placed in the program within 50 days of screening for eligibility.	
X	<input type="checkbox"/>	21	Team members are assigned to Juvenile Drug Court for no less than two years.	
X	<input type="checkbox"/>	22	All team members use electronic communication to contemporaneously communicate about Juvenile Drug Court issues.	
X	<input type="checkbox"/>	23	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Juvenile Drug Courts.	VIII F
X	<input type="checkbox"/>	24	New staff hires receive a formal orientation training on the Juvenile Drug Court model and best practices in DUI Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII F
<input type="checkbox"/>	X	25	The Juvenile Drug Court has more than 15 but less than 125 active participants.	IX C
X	<input type="checkbox"/>	26	The Juvenile Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X A
X	<input type="checkbox"/>	27	New referrals, new arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Juvenile Drug Court.	X C
X	<input type="checkbox"/>	28	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X G
<input type="checkbox"/>	X	29	The program conducts an exit interview for self-improvement.	

		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		
YES	NO	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Juvenile Drug Court regularly monitor whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II B XE

YES NO		NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS		BPS
		#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	2	The Juvenile Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, day treatment, intensive outpatient and outpatient services.	V B
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V E
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V E
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5	Treatment providers administer behavioral or cognitive –behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the juvenile justice system.	V F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	6	Treatment providers have substantial experience working with juvenile justice populations.	V H
<input checked="" type="checkbox"/>	<input type="checkbox"/>	7	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Juvenile Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), other major anxiety disorders.	VI E
<input checked="" type="checkbox"/>	<input type="checkbox"/>	8	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	9	Female participants receive trauma-related services in gender-specific groups.	VI F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	10	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI F
<input type="checkbox"/>	<input checked="" type="checkbox"/>	11	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group, as appropriate, after their discharge from the Juvenile Drug Court.	VJ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	12	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	VJ
<input type="checkbox"/>	<input checked="" type="checkbox"/>	13	Before starting a Juvenile Drug Court, team members attend a formal pre-implantation training to learn from expert faculty about best practices in Juvenile Drug Courts and develop fair and effective policies and procedures for the program.	VII F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	14	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicted complementary services.	X
<input type="checkbox"/>	<input checked="" type="checkbox"/>	15	Information relating to the services provided and participant' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Juvenile Drug Court's adherence to best practices and in-program outcomes.	X F
<input checked="" type="checkbox"/>	<input type="checkbox"/>	16	Outcomes are examined for all eligible participants who entered the Juvenile Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. B BPS X H	X H

Tab 5

**Justice Court Technology, Security and Training Account
Funding Requests for FY21**

Requests for One-Time Funding

#	Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
1	AOC/Information Technology	Programming and Help Desk Support for Justice Courts	\$208,806		\$208,806	Personnel costs attributable to Justice Courts for IT support
2	AOC/Information Technology	<u>Google Accounts for Justice Court Judges and Clerks</u>	\$22,500		\$22,500	500 licenses @ \$45 each
3	AOC/Information Technology	CORIS Infrastructure for Justice Courts	\$165,215		\$165,215	CORIS Infrastructure for Justice Courts
4	AOC/Judicial Institute (Education)	Request for Justice Courts' Share of Education's Overhead Costs	\$45,080		\$45,080	Employee Classes, Annual Judicial Conference, Training Technology, Professional Memberships and Training of Education Personnel
5	AOC/Judicial Institute (Education)	Judicial Decision Making (fka Law and Literature)	\$1,000		\$0	The Board is not interested in doing this training virtually
6	AOC/Judicial Institute (Education)	Constitutional Law or Other Workshop	\$1,500		\$1,500	To be provided in connection with the spring conference
7	AOC/Judicial Institute (Education)	<u>Small Claims Training for Judges Pro Tem</u>	\$3,000		\$1,000	Small claims training provided twice each year for judges pro tem
8	AOC/Judicial Institute (Education)	<u>New Clerk Orientation</u>	\$1,000		\$1,000	Covers orientation for new clerks in connection with the fall conference and the spring conference
9	Board of Justice Court Judges	Trust and Confidence Committee	\$2,000		\$2,000	Funding for outreach/CLE presentations to build trust and confidence in Justice Courts
10	Board of Justice Court Judges	Computer Equipment for Judges	\$30,000		\$30,000	Funding for the cost of computer equipment for the judges
11	Board of Justice Court Judges	District Trainings	\$5,000		\$5,000	New request; previously funded by the Education Department
12	Board of Justice Court Judges	WebEx Functionality for Calling Out	\$20,000		\$0	Trial period underway; future request possible in the fall
13	Board of Justice Court Judges	Funds to Replace In-Person Training Opportunities with Distance Learning	\$50,000		\$30,000	Temporarily replaces funds for out-of-state training

#	Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
14	Aurora Justice Court	<u>Printer</u>	\$100		\$100	Funding to purchase a new printer for the judge to use in the courtroom
15	Davis County Justice Court	<u>Video Cart</u>	\$547		\$0	Request to reimburse the cost of a video cart allowing parties to use their devices in court
16	Garland Justice Court	<u>Laptop Computer for In-court Processing</u>	\$1,000		\$500	Funding to replace an outdated laptop computer for in-court processing
17	Harrisville Justice Court	<u>Digital Pagers for Court Patrons</u>	\$919		\$0	Funding to purchase digital pagers for court patrons to be able to wait at a safe distance
18	Holladay Justice Court	<u>Smart TV</u>	\$350		\$350	Funding to purchase a smart TV for remote video hearings and appearances
19	Iron County Justice Court	<u>LiveScan</u>	\$6,700		\$6,700	Funding to purchase a LiveScan
20	Juab County Justice Court	<u>Metal Detector and Recharger Kit</u>	\$191		\$191	Funding to purchase a new metal detector and recharger kit
21	Logan Justice Court	<u>Walk-Through Metal Detector</u>	\$4,000		\$4,000	Funding to purchase a walk-through metal detector for the courthouse
22	Orem Justice Court	<u>Barrier glass for the Front Counter</u>	\$1,338		\$1,338	Funding to purchase and install barrier glass for the front counter of the court
23	Plain City Justice Court	<u>Security Cameras for Courthouse</u>	\$7,408		\$0	Funding to purchase and install security cameras in and around the city building
24	Pleasant Grove Justice Court	<u>Adobe Editing Program</u>	\$180		\$180	Funding for software to create interactive forms
25	Salt Lake City Justice Court	<u>Headsets</u>	\$2,500		\$2,500	Funding to purchase 10 Cisco 562 headsets for court staff
26	Salt Lake City Justice Court	<u>iPads</u>	\$4,000		\$2,000	Funding to purchase 10 iPads for jury trials

27	Salt Lake County Justice Court	<u>Redesign Courtrooms and Holding Cells</u>	\$50,000		\$0	Funding to redesign the courtrooms and holding cells
28	Summit County Justice Court	<u>Tablets</u>	\$1,000		\$500	Funding to buy tablets for electronic signatures in courthouse
29	Taylorsville Justice Court	<u>Sanitizer Stations</u>	\$1,000		\$1,000	Funding to purchase four hand sanitizers (two wall mount and two free standing)
30	Utah County Justice Court	<u>Monitors for Security Cameras</u>	\$1,270		\$1,000	Funding to purchase several monitors for security cameras
31	Washington City Justice Court	<u>New Court Sound System</u>	\$8,262		\$0	Funding to upgrade the court sound system
32	Washington County Justice Court	<u>Security Signage</u>	\$617		\$660	Signage prohibiting certain items within the courthouse
33	Willard City Justice Court	<u>Laptop for Courtroom</u>	\$1,295		\$500	Funding to purchase an updated laptop for the courtroom
Total One-Time Grant Requests for FY21			\$647,778		\$533,620	

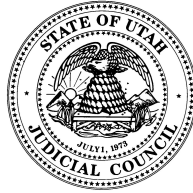
Ongoing Funding

Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
Board of Justice Court Judges	Online Legal Research for Justice Court Judges		\$20,000		Westlaw subscriptions
Information Technology	Webex Licenses and Support		\$20,000		Covers cost of Webex licenses at \$215 each
Judicial Institute	<u>Education Coordination Fee</u>	\$50,000		\$50,000	Coordination of all justice court events with personnel from Education
Judicial Institute	Clerical Trainer	\$55,000		\$55,000	Funding for half of the new Justice Court Education Coordinator
Judicial Institute	<u>New Judge Orientation</u>	\$1,500		\$1,500	Estimated cost of orientation for new justice court judges up to three times per year
Judicial Institute	<u>Justice Court Clerks' Conference</u>	\$3,000		\$3,000	Estimated cost of virtual training for clerks in fall 2020 and spring 2021
Judicial Institute	<u>Justice Court Judges' Conference</u>	\$4,500		\$4,500	Estimated cost of virtual conference in spring 2021
Judicial Institute	<u>Justice Court Benchbook Update</u>	\$1,500		\$1,500	New request: the update requires \$3,000 every two years

Totals

Total Ongoing Grant Funds	\$40,000
Total One-Time Grant Funds Recommended for FY21	\$649,120
Projected Revenue from FY20	\$725,000
Total Grant Awards	\$689,120
Difference Between Available Funding and Recommended Grant Awards	\$35,880

Tab 6



Administrative Office of the Courts

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

May 26, 2020

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judge Mark May, Budget & Finance Committee Chair

FROM: Bart Olsen, HR Director

RE: Total Compensation Strategy

On November 25, 2019, the Judicial Council approved FY20 market comparability increases recommended by this Committee and based on guiding principles adopted by the Committee. Committee Chair Judge Mark May informed the Council that the Committee's top priority for the coming year would be to examine the process for market comparability increases and identify recommendations to improve the overall compensation strategy.

The current process for market comparability increases was developed to meet the requirements outlined in the Judicial Council Code. Particularly relevant pieces of the Code provide helpful context to contemplate future strategy by stating that human resource procedures shall be based upon

“a salary schedule which provides for equitable and adequate compensation based upon studies conducted every three years of the salary levels of comparable positions in both the public and private sector and available funds;” and

“employee retention on the basis of adequate performance ...” [[Rule 3-402\(3\)\(B\)\(ii\), \(iii\)](#)]¹

¹ The Policy & Planning Committee approved changes to these pieces of Rule 3-402 that I anticipate will be approved by the Judicial Council. The new draft rule now reads: “The human resources policies for non-judicial officer employees shall include ... a salary schedule which provides for equitable and adequate compensation based upon current job market data gathered at least every three years, including salary levels of comparable positions in both the public and private sector, local labor market information and trends, other relevant data, and available funds;” and “...employee retention on the basis of performance that enhances and/or advances the mission of the judiciary ...”

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

Although the requirements in Rule 3-402 may still be satisfied by retaining the current process, the effectiveness of the process is debatable. The appetite to consider significant changes has been expressed repeatedly by the Council and others.

Additionally, the compensation strategy of the judiciary should be able to account for rapidly changing needs and must effectively attract and retain the people best suited to further its mission. Past strategies are not likely to meet those future needs. The purpose of this memorandum is to propose high-level recommendations for the Budget & Finance Committee to consider for recommendation to the Judicial Council.

Systematically and Intentionally Generate Turnover Savings

1. Target between \$500,000 and \$1,000,000 (or more) in ongoing turnover savings each fiscal year to fund more strategic uses of personnel dollars.
 - 1.1. Considerable effort and focus should be given to finding efficiencies in performing court business that lend toward a need for fewer FTEs, thereby realizing savings through attrition.
 - 1.2. One example may include temporarily leveraging technology/video conferencing resources when clerical turnover occurs, so that remote support may be given by remaining clerical personnel. This could make possible a quarterly or semi-annual bulk hiring and bulk training of clerical personnel, resulting in significant turnover savings and freeing up of other resources in the meantime such as training resources, etc.
 - 1.3. Ongoing technology solutions and process improvement efforts should be a matter of top priority and sustained focus to continue identifying efficiencies and reward staff that contribute to finding and implementing these efficiencies.

Restructure Basis for Salary Decision Practices

2. At a high level, I recommend the Committee/Council consider the following actions which move away from past practices, to increase ability to attract and retain the best talent:
 - 2.1. Move away from the career ladder or job series for Judicial Assistants (JA I, JA II, and JA III), Probation Officers (PO I, PO II, and PO III), and other jobs whose essential functions and purposes remain largely unchanged throughout the job series and only reward longevity and training completion.
 - 2.2. Instead, the minimum of the current level I and the maximum of the current level III should be used and focus should be placed on moving an employee through quartiles of the salary range.

- 2.3. Move away from the heavy focus on market studies to drive discretionary compensation increases. While market data should always remain an essential informant, it should cease to be the main driver of discretionary compensation decisions.
3. In order to prepare for the best possible workforce of 2020, 2030 and beyond, I recommend the Committee/Council consider the following new ideas to attract and retain the best talent in the judiciary:
 - 3.1. Apply incremental salary increases for Judicial Assistants and Probation Officers with a goal of reaching the mid-point of the salary range within a given amount of time.
 - 3.1.1. Emphasis should be placed on the timeframe where turnover tends to occur most frequently (such as the first 6, 12, 18, and 24 months of employment).
 - 3.1.2. Emphasis may also be placed on jobs where turnover tends to occur most frequently – for example, timeframe patterns for incremental salary increases may need to occur quarterly in a given urban area with higher historical turnover and may be suitable to occur only on a semi-annual or annual basis in a given rural area with historically low turnover.
4. Adopt a purposeful, intentional focus on job performance that clearly supports and/or advances the mission of the judiciary.
 - 4.1. Methodologies to evaluate performance for compensation decisions may be provided by HR and allowed to be flexible as time goes on in order to test and refine.
 - 4.2. Management should receive consistent training from HR and others in the AOC as applicable (such as Education, Finance, etc.) in coaching toward mission-focused performance and evaluating against mission-focused criteria.
5. Include other logical informants and drivers of compensation decisions as matters of principle and consideration, including but not limited to:
 - 5.1. Available budget from Ongoing Turnover Savings
 - 5.2. Available One-Time budget funds
 - 5.3. Individual employee flight-risk (HR can help with this)
 - 5.4. Turnover within a job
 - 5.5. Total years of service
 - 5.6. Years of service in current job/assignment
 - 5.7. Date of last increase/bonus

6. In addition to these high-level changes, I am working with the HR Policy & Planning Review Committee on substantial proposed changes to the section in HR policy governing Compensation for Judicial Council consideration. Those changes focus on giving several tools that are not widely used today, to formally address attraction and retention in clearly articulated, transparent, and consistent ways. While our current budget situation may not allow for immediacy, the policy changes I'm proposing would grant informative and helpful tools for managers to use timely when economic conditions change. Many of these tools have proven to be successful in other areas of government in Utah, including:
 - 6.1. Cash incentives for generating cost savings
 - 6.2. Market based bonuses, such as:
 - 6.2.1. retention for unique circumstances
 - 6.2.2. recruitment or signing bonus
 - 6.2.3. scarce skills bonus
 - 6.2.4. relocation bonus
 - 6.2.5. geographic job market bonus

Widen the Scope of Rewards

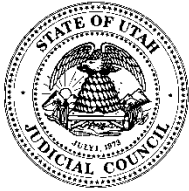
7. Salary is a powerful way to reward employees. It is also the most expensive and not always the most impactful reward. Ideal impacts for the most effective efforts to advance the mission of the judiciary will be achieved with a combination of salary and other rewards that are currently not a common consideration:
 - 7.1. Non-cash incentive awards, compliant with Division of Finance policies
 - 7.1.1. Judiciary approved [apparel through UCI contract](#)
 - 7.1.2. Judiciary approved [carry bags, backpacks, or accessories through UCI contract](#)
 - 7.2. Rewards of paid services an employee may highly value but wouldn't otherwise purchase such as:
 - 7.2.1. Housekeeping service (discounted for state employees such as [this one](#), one-time service or ongoing)
 - 7.2.2. Limited subscription to online streaming services such as Audible, Spotify, Netflix, etc. (a one-month subscription might be the reward)
 - 7.2.3. Lawn/yard/window cleaning service (one-time fixed amount)
 - 7.3. Telework incentives

- 7.3.1. Consider modeling after [these plans](#) in the Governor's Office of Management & Budget
- 7.3.2. Cell phone and/or Internet service reimbursement
- 7.4. Flexible Schedules
 - 7.4.1. 4 10s
 - 7.4.2. 4 9s and a 4
 - 7.4.3. Early/late on 5 8s
- 7.5. Leave accrual
 - 7.5.1. Allowance for up to 7 hours accrual of annual leave per pay period
 - 7.5.2. Administrative leave balance (manual tracking required by supervisor) as reward
- 8. Expanded scope and more strategic reward of education assistance
 - 8.1. Up to \$5,250 per calendar year per Division of Finance and IRS requirements
 - 8.2. Relaxed eligibility for courses/certificate programs
 - 8.3. Targeted eligibility/approval for performance-based reasons as a reward
- 9. Encourage leadership to find out locally among teams what types of low-cost or no-cost perqs would be valuable to reward performance such as:
 - 9.1. Temporary work assignment change
 - 9.2. Parking space
 - 9.3. Team outing/activity such as a bowling game, movie, Jazz or Bees game, etc.
 - 9.4. Designated casual dress day
 - 9.5. Etc.

FY21 Budget Decisions

- 10. If sufficient carryforward funds exist for FY21, I recommend the committee reserve a percentage of those funds for personnel.
- 11. If funded, the committee may then ask HR to recommend principled, performance-focused methodologies to distribute those funds consistent with recommendations already given herein, for the committee to consider for approval.

Tab 7



Administrative Office of the Courts

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

MEMORANDUM

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy D. Sylvester*
Date: July 8, 2020
Re: Certification of Court Commissioners

A. COURT COMMISSIONER REAPPOINTMENTS

The court commissioner evaluation and retention processes are governed by the following Utah Code of Judicial Administration rules:

- [Rule 3-111](#): governs court commissioner evaluations;
- [Rule 3-201](#): governs the retention of court commissioners.

During the Judicial Council’s July meeting, the Council begins the process of recertifying for retention court commissioners whose terms expire December 31. The following court commissioners fall in that category:

Court Commissioners:

Last Name	First Name	Salute	Court	Geographic Division	Term Start	Term End
Luhn	Kim M.	Commissioner	District Court	Third Judicial District	1/1/2017	12/31/2020
Petersen	Sean M.	Commissioner	District Court	Fourth Judicial District	1/8/2018	12/31/2020

The results of Commissioner Kim Luhn’s and Sean Petersen’s most recent attorney surveys as well as their self-declarations are attached. *I will circulate their performance evaluations separately.* Neither of the commissioners has a complaint pending before the Commissioner Conduct Commission. The Council should convene an executive session to discuss their eligibility for certification. The certification process is outlined in more detail below.

B. THE COMMISSIONER CERTIFICATION PROCESS

You may consider the information regarding each court commissioner in an executive session, but your decision of whether to certify must be made at a public hearing.

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.

If a court commissioner meets all of the certification standards, it is presumed that the Council will certify the individual for retention. If the court commissioner fails to meet all of the standards, it is presumed you will not certify the individual. However, the Council has the discretion to overcome a presumption against certification upon a showing of good cause. Before declining to certify a commissioner, you must invite him or her to meet with you to present evidence and arguments of good cause. If you decline to certify a court commissioner, the person will not be retained after the end of his or her term of office.

Any court commissioner you certify will be sent to the judges of the commissioner's district for decision. Retention is automatic unless the judges decide not to retain.

C. PERFORMANCE STANDARDS FOR COMMISSIONERS

i. Attorney Survey of Court Commissioners

A satisfactory score for an attorney survey question is achieved when the ratio of favorable responses is 70% or greater. A court commissioner's performance is satisfactory if at least 75% of the questions have a satisfactory score; and the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

ii. Cases Under Advisement

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

A court commissioner in a trial court demonstrates satisfactory performance by holding:

- no more than three cases per calendar year under advisement more than 60 days after submission; and
- no case under advisement more than 180 days after submission.

iii. Education

Court commissioners must comply annually with judicial education standards, which is at least 30 hours of continuing education per year.

iv. Substantial Compliance with the Code of Judicial Conduct

A commissioner's performance is satisfactory if the commissioner's response in their self-declaration form demonstrate substantial compliance with the Code of Judicial Conduct, and if the Council's review of formal and informal sanctions leads you to conclude the commissioner is in substantial compliance with the Code of Judicial Conduct.

v. Physical and Mental Competence

If the response of the 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 commissioner's performance is satisfactory.

vi. Performance Evaluations of Commissioners

Performance evaluations are required annually for all court commissioners. The presiding judge is to provide a copy of each commissioner evaluation to the Judicial Council.

COURT COMMISSIONERS



Performance Evaluation Self Declaration Form

Kim Luhn

Commissioner, Third Judicial District

From 1/1/2017, the start of your current term of office, to the present:				Yes	No		
(1) Have you held more than three cases per calendar year under advisement more than 60 days after submission?					✓		
(2) Have you held any case under advisement more than 180 days after submission?					✓		
(3) Are you in substantial compliance with the Code of Judicial Conduct?				✓			
(4) Are you mentally and physically fit for office?				✓			
(5) Do you have any disciplinary matters pending before the Judicial Council?					✓		
(6) Do you have any disciplinary matters pending before the Court Commissioner Conduct Committee of which you are aware?					✓		
(7) Please enter your education hours for the following calendar years.							
2017		2018		2019		2020	
35		33.5		31.25		0	
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.							
Fall Judicial Conf. 12 Family Law Seminar 6							

Date

6/9/20

Kim Luhn

Commissioner, Third Judicial District

Please complete this form and return it no later than July 1, 2020 to:

Nancy J. Sylvester

P. O. Box 140241

Salt Lake City, Utah 84114-0241

FAX: 801-578-3843 Email: nancyjs@utcourts.gov

COMMISSIONER KIM LUHN									
Question	Certification Score	Inadequate	Less than Adequate	Adequate	More than Adequate	Excellent	No Personal Knowledge	Average	Average All SJ
Demonstrates understanding of the substantive law and any relevant rules of procedure and evidence.	81.3%	2	10	18	26	51	0	4.07	4.52
Is attentive to factual and legal issues before the court.	81.3%	6	7	14	27	53	0	4.07	4.53
Adheres to precedent and is able to clearly explain departures from precedent.	77.5%	5	14	15	24	45	4	3.87	4.35
Grasps the practical impact on the parties of the commissioner's rulings, including the effect of delay and increased litigation expense.	80.2%	4	14	14	20	55	0	4.01	4.19
Is able to write clear judicial opinions.	79.5%	4	6	13	18	35	30	3.97	4.42
Is able to clearly explain the legal basis for judicial opinions.	75.8%	5	15	17	28	40	2	3.79	4.32
Demonstrates courtesy toward attorneys, court staff, and others in the commissioner's court.	73.5%	12	12	18	22	43	0	3.67	4.69
Maintains decorum in the courtroom.	74.8%	8	12	20	27	40	0	3.74	4.68
Demonstrates judicial demeanor and personal attributes that promote public trust and confidence in the judicial system.	72.6%	12	14	18	19	43	0	3.63	4.66
Prepares for hearings.	83.7%	5	4	12	29	54	1	4.18	4.58
Avoids impropriety or the appearance of impropriety.	81.2%	8	8	12	18	58	1	4.06	4.71
Displays fairness and impartiality toward all parties.	75.9%	10	13	15	20	49	0	3.79	4.46
Is able to clearly communicate, including explaining the basis for written rulings, court procedures, and decisions.	78.5%	4	11	24	16	50	2	3.92	4.46
Manages workload.	85.2%	1	4	15	22	50	15	4.26	4.48
Is willing to share proportionally the workload within the court or district, or regularly accepts assignments.	89.1%	1	0	5	11	29	61	4.46	4.80
Is willing to share proportionally the workload within the court or district, or regularly accepts assignments.	85.3%	3	3	16	20	57	8	4.26	4.49
Overall Average Score:	79.7%	90	147	246	347	752	124	3.99	4.52

Comments:

She is a very good judge, I respect her a lot. She is smart and compassionate, yet firm. She's a credit to the bench.

Comm. Luhn yells at many parties. I understand that our clients are frustrating but yelling at them does not help. It is also clear that she has made up her mind before going on the bench and then it sometimes seems as though she is "meaner" to the losing party which is always difficult for attorneys to manage post hearing.

Not assume everyone in a difficult case is in the wrong and chew out everybody. Some people really are innocent victims of situations but every litigant in a contested hearing in this court gets chewed out.

Commissioner Luhn is fantastic. She is fair, knows the law, and keeps things moving in her courtroom. Sometimes she raises her voice, but 99% of the time, that's a good thing. Sometimes the parents in a divorce (including my client sometimes) need someone in a black robe yelling at them to clean up their act. Her attitude. She just doesn't seem happy.

Commissioner Luhn is an excellent judicial officer. While she is highly knowledgeable and experienced in the rules and abstractions of family law, she retains a laser-like focus on the practical impact her decisions will have on families. Commissioner Luhn is quite simply one of my favorites.

Excellent doesn't leave much room for improvement, but since you asked: maybe sometimes taking a deep breath and remembering how good you were in always conveying that delicate balance of understanding, empathy and judicial decisiveness. You're still excellent, but sometimes your frustration shows through. I understand; believe me!

Once Commissioner Luhn has had an experience with a client, and especially if that prior experience was unfavorable, she cares not what happened on THIS occasion, but rules based on the past experience. She takes sides rather than ruling on the facts and law before her.

Commissioner Luhn is one of my favorite commissioners. She explains what she expects of litigants and holds them accountable if they are not meeting expectations. I think we have too many commissioners/judges that are scared to call someone out who is not following court orders. We are lucky to have Commissioner Luhn on the bench.

Commissioner Luhn,
Does an excellent job. I have no suggestions for improvement. I am always glad to appear before her.

The Honorable Commissioner Luhn may be the only Commissioner in the state of Utah that I have no suggestions for improvement. She was made for this job. I'm so thankful that she is on the bench and serving.

I believe Commissioner Luhn is an excellent commissioner. It is clear she cares about parties and their children and tries to be fair. Sometimes she changes her mind mid-hearing and that can be frustrating. Unfortunately, Commissioner Luhn's clerks (Heather and Melanie) are lacking. I don't believe they understand procedural nuances and rules and they regularly reject properly drafted orders. For instance, a SODI requires that the party submits an order with the motion, but these clerks reject them on a regular basis. The clerks need more training. Clerks need more training.

Commissioner Luhn needs to adhere to case law and statutes to uphold her rulings. Commissioner Luhn rules from emotion and feeling a lot, but her rulings are easily overturned because they are not founded in law. Commissioner Luhn's biases toward attorneys and certain clients come apparent in her rulings as well. It's very hard to explain her rulings to clients when they are so off base and it costs clients so much more money to get them corrected. I appreciate her efforts and her work on the bench. But it's hard to get access to justice when arguing in front of her.

Commissioner Luhn is overly harsh towards women and loses her temper too much in the courtroom.

Overall, Commissioner Luhn brings perspective, candor, and frankness to many of the attorneys and litigants that appear before her. She has always treated each individual fairly and based upon their own conduct. In my hearings, Commissioner Luhn clearly demonstrates knowledge of the law and discusses the practical impacts the law will have on a litigant's daily life. In my personal opinion, this aids many people in understanding the logistics of court in a family law system that is often confusing to many.

I think Commissioner Luhn is doing a great job.

I appreciate Commissioner Luhn's frank feedback and I find it helpful and useful in explaining positions to my client(s). I appreciate her perspective on the needs of children and her focus on their rights. I think her difficulty may lie in managing, what is without question, a heavy caseload.

Sometime this Commissioner will issue a ruling on one of her friend's motions without waiting for the other side to even respond. Have seen this happen a few times. Need to stop showing favoritism to other lawyer friends. Had other attorney approach me on this issue.

I've noted significant improvement in this Commissioner's demeanor in her courtroom. She's clearly taken feedback in the constructive manner it was offered by members of the family bar.

Luhn is a bad ass. She's exactly the type of commissioner we need on the bench in family law. Though some do not like her style, I wish every commissioner in the state was as direct and clear and unsympathetic toward idiocy as she is. Any suggestion that her demeanor is inappropriate is laughable and only comes from limp noodles who can't stand the thought of a firm commissioner raising her voice. Get over it losers. Give me more Luhrs across the state and maybe litigants would start taking family law courts more seriously.

I enjoy practicing before Commissioner Luhn as she is prepared, rules appropriately, and explains deviations. I always appreciate her getting to the heart of the matter quickly. She is also not afraid to educate the Parties if she feels like they are acting in a way detrimental to Minor Children. She also demonstrates that she enjoys her job and believes she is making a difference -- which she is. Sometimes having someone you believe is listening to you, is not blowing you off, make all the difference to a client - even when being ruled against.

Commissioner Luhn treats everyone with respect and has compassion but is appropriately firm.

This Commissioner let's emotion sway her decisions. She allows her viewpoint of the litigant as a good person or a bad person affect how she rules even on clear cut legal issues. She interrupts counsel during argument to challenge arguments or question counsel in a sometimes accusatory manner. Litigants do not feel comfortable when she is making accusations toward them as they sit at counsel table. She would improve if she would stop doing all those things, listen to arguments, be patient, and make unemotional rulings.

First, I love this Com. She is amazing with pro se persons and her admonishments to parents have brought me to tears bc they are so moving and accurate. She cares. But, Sometimes she does loose her temper. That is my only criticism.

Commissioner Luhn is one of my favorite commissioners because she is consistent in her rulings, she awards sanctions when appropriate (which is the only way to stop a party from using the court system to abuse the other parth), and understands the underlying dynamics of the case.

The commissioner should wait until the end of the hearing to issue her recommendations on all the issues, rather than making recommendations piecemeal during argument. The commissioner gets too emotional during hearings. Clients have told me after the hearing they felt more like they were back in high school, instead of in a courtroom, and they were being reprimanded by a teacher.

Commissioner Luhn is a wonderful addition to our judicial sector. She can sometimes get overexcited and upset with parties, but only when the parties need the reality check.

Commissioner can sometimes have faith in parties that seems unwarranted by the facts before the court. Overall very well-rounded as to law, facts, and practical outcomes. By far one of the most pleasant courtrooms to work in as a lawyer.

Comm. Luhn has on more than a few occasions misstated the record in cases, misstated statements in affidavits or motions and attacked parties personally in court.

I know that Commissioner Luhn has been roundly criticized for being extremely terse with litigants. This has greatly improved and I would also like the Court to know that her demeanor has greatly assisted in difficult cases in which parties are naughty to either one another or their children. She makes her displeasure with known and parties may not like it but they are far more compliant with the Court's orders.

In my experience Commissioner Luhn does an excellent job. I would be ill prepared to give her advice on how to improve.

Commissioner Luhn continues to berate both parties abs attorneys inappropriately. Often times it comes off as if she is personally offended when a party or attorney does not agree with her. Needs to work on judicial demeanor

Commissioner Luhn's temperament has improved, as has her grasp of legal concepts and caselaw, but both are still below where they should be for a commissioner. At times the Commissioner forgets what she previously ordered and needs to be reminded multiple times. She should take clear notes in her own file to recall where she left off at the prior hearing.

Commissioner Luhn can be imperious, impatient, and emotional in the courtroom and in rendering decisions. It is not clear that she reviews the pleadings as submitted, and even were she to make it clear that she is prepared, she often makes clear that her decision making process has been driven by assumptions not necessarily supported by any evidence submitted to her. The emotional approach that she often evidences in court is not helpful to clients or their understanding of the system. Moreover, her decisions often appear to be driven by her relationships with counsel, not fact or law.

Commissioner Luhn is a good person but does not understand that those who appear before her are real people with real issues, and the attorneys are merely representing their clients. Yelling and belittling the client and the attorney does nothing but add to an already difficult family law case.

I have to warn my clients that go before her that she will likely get upset and raise her voice at everyone. She should change this.

She does a great job. I appreciate her talking very directly to parties and sometimes very bluntly.

The Commissioner has done better than before but at times still uses far too much emotion against one party (or both) for small things in the grand scheme of much larger issues - i.e. mad at one party for being 10-15 min late to exchanges but says little about other party not making timely support payments

I do not know of any way in which Commissioner Luhn needs to improve. I have heard rumor that she has had complaints regarding her decorum in the courtroom. However, I find her candor and passion in the courtroom to be refreshing. While she does sometime raise her voice and appear passionate, it has always been appropriately tailored to the circumstances, in my experience.

Commissioner Luhn is doing a great job. I do not have any recommendations for improvement.

Commissioner Luhn sometimes gets a bad rap for being what some describe as brusque or short tempered. I find her demeanor refreshing. She cuts through the BS. Sometimes she overreacts. Chill. She's human. Sometimes she gets a little self-righteous, but it's so easy to do when dealing with divorce attorneys who are so often disingenuous and insufferable.

My guess is that many criticize Commissioner Luhn for being short with people at times. It's not the only way to manage one's courtroom, but I don't think any mature, intellectually honest person would claim its prejudicial. I appreciate her.

- Commissioner Luhn does an excellent job.
1. Keep attorneys and parties from rambling
 2. Tone down her temper

Keep doing what she is doing. Commissioner Luhn commands respect in her courtroom.

I like you personally, but you are too quick to judge and to interrupt attorneys. Perhaps I do not fully appreciate the enormous time constraints you have to deal with, but it seems like you are a bit unprepared and unwilling to fully consider a litigant's position.

Honestly, I always feel confident going into Commissioner Luhn's Courtroom knowing that her ruling will be consistent. It helps me as a practitioner guide my clients better and help them understand what to expect. I love that Commissioner Luhn puts the kids first and gets after parents who are failing their children. When I have those hard clients, it makes them much easier to manage when Commissioner Luhn gets after them (usually after I have gotten after them many times already).

I give her two thumbs up. This JUDGE is a SAINT.

She could more clearly articulate her basis for some of her opinions, perhaps citing to case law and specific facts in the case. However, overall she does a fine job and really cares about the people and the kids involved in the court process.

Prepare for hearing including reading of Motions. Maintain consistency of opinions and rulings. Demonstrate a proper judicial demeanor from the bench toward parties.

**Performance Evaluation Self Declaration Form**

Sean Petersen

Commissioner, Third Judicial District

From 1/8/2018, the start of your current term of office, to the present:				Yes	No
(1) Have you held more than three cases per calendar year under advisement more than 60 days after submission?					<input checked="" type="checkbox"/>
(2) Have you held any case under advisement more than 180 days after submission?					<input checked="" type="checkbox"/>
(3) Are you in substantial compliance with the Code of Judicial Conduct?				<input checked="" type="checkbox"/>	
(4) Are you mentally and physically fit for office?				<input checked="" type="checkbox"/>	
(5) Do you have any disciplinary matters pending before the Judicial Council?					<input checked="" type="checkbox"/>
(6) Do you have any disciplinary matters pending before the Court Commissioner Conduct Committee of which you are aware?					<input checked="" type="checkbox"/>
(7) Please enter your education hours for the following calendar years.					
	2018	2019	2020		
	40+	33.5	current for 2019/2020		
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.					

Date

6/4/20

Sean Petersen

Commissioner, Fourth Judicial District

Please complete this form and return it no later than July 1, 2020 to:

Nancy J. Sylvester

P. O. Box 140241

Salt Lake City, Utah 84114-0241

FAX: 801-578-3843 Email: nancyjs@utcourts.gov

COMMISSIONER SEAN PETERSEN

Question	Certification Score	Inadequate	Less than Adequate	Adequate	More than Adequate	Excellent	No Personal Knowledge	Average	Average All SJ
Demonstrates understanding of the substantive law and any relevant rules of procedure and evidence.	88.6%	1	1	6	25	44	0	4.43	4.40
Is attentive to factual and legal issues before the court.	88.8%	0	3	6	22	46	0	4.44	4.41
Adheres to precedent and is able to clearly explain departures from precedent.	85.3%	1	5	7	22	40	2	4.27	4.22
Grasps the practical impact on the parties of the commissioner's rulings, including the effect of delay and increased litigation expense.	82.1%	6	6	6	14	44	1	4.11	4.16
Is able to write clear judicial opinions.	85.4%	0	6	3	11	28	29	4.27	4.32
Is able to clearly explain the legal basis for judicial opinions.	85.1%	1	4	7	26	37	2	4.25	4.17
Demonstrates courtesy toward attorneys, court staff, and others in the commissioner's court.	92.5%	1	3	3	10	60	0	4.62	4.38
Maintains decorum in the courtroom.	92.7%	1	0	4	16	56	0	4.64	4.38
Demonstrates judicial demeanor and personal attributes that promote public trust and confidence in the judicial system.	90.4%	2	2	5	13	55	0	4.52	4.37
Prepares for hearings.	90.4%	0	1	7	20	49	0	4.52	4.47
Avoids impropriety or the appearance of impropriety.	93.4%	1	0	3	15	57	0	4.67	4.50
Displays fairness and impartiality toward all parties.	89.1%	2	3	4	17	51	0	4.45	4.24
Is able to clearly communicate, including explaining the basis for written rulings, court procedures, and decisions.	87.7%	1	3	4	24	41	4	4.38	4.31
Manages workload.	89.7%	0	1	9	13	43	10	4.48	4.41
Is willing to share proportionally the workload within the court or district, or regularly accepts assignments.	95.9%	0	0	1	5	28	42	4.79	4.69
Is willing to share proportionally the workload within the court or district, or regularly accepts assignments.	87.3%	1	3	7	18	42	5	4.37	4.45
Overall Average Score:	89.0%	18	41	82	271	721	95	4.45	4.37

Comments:

Once in a while he lets hearings last too long. When a party or attorney says something once, that should be enough. There's no need to repeat and repeat.

I always like to emphasize that lawyers and parties appreciate the enforcement of rules, rather than indulgence of parties and their counsel that violate rules (timeliness, evidence, expert disclosures). There is nothing that damages a judge's/commissioner's credibility with clients more than disregarding rules of evidence and civil procedure; it is also very frustrating to attorneys that do all they can to present rule-compliant and timely filings to commissioners.

He is a conscientious and careful decider

When deciding protective order cases, consider more fully the implications of "reserving" certain issues, like child support, for a divorce or custody case that has just been filed or may be filed in future. The legislature authorizes the court to order CS in the PO and many other JXs do, but the tradition of the 4th district commissioners has been not to do so. Financial dependence is a common reason victims return to their abusers.

Further, a domestic case may not be filed quickly, and even if it is already filed, a motion could take 2 months and may not be a good strategic choice.

It is hard to say how he can improve because I believe (finally) we have a commissioner in FOurth District whom we can rely on to do his job the right way. Commissioner Petersen is an excellent judicial officer and more commissioners should look to him as an example. I am always very impressed with him (even when he rules against me or my clients).

I'm not sure. Commissioner Petersen has a good grasp of the legal issues and the practical issues impacting our clients. He does not waste the Parties' times. He is very well prepared for hearings. He gets the issues clearly and addresses them fairly and well.

Maybe smile a little more. Other than that, he does a great job.

I have been concerned that Comm'n Peterson seems too ready to maintain and/or enforce the status quo when faced with dynamic or difficult situations. I understand the impulse but it has been counterproductive in my experience.

he will at times issue a ruling that he intends to be fair but is inconsistent with the way he should rule. that means that he will try very hard to be equitable but not rule in the way that is correct.

Every pie cannot be cut in half.

I would've liked more flexibility for having hearings during COVID-19 pandemic. But otherwise, he is a great Commissioner - he's especially helpful with practical applications of the law.

Commissioner Peterson is a thoughtful and courteous member of the judiciary. The biggest thing he can do to improve his performance is to get a backbone and understand that his rulings impact the approach parties and attorneys take in the future. Unfortunately, he dishes out "mercy" in a manner that results in parties not taking the court's orders seriously. I assumed that maybe this was just my experience. However, numerous times, I've heard similar expressions from multiple other attorneys, both from Utah County and throughout the state. I have seen this directly impact multiple cases.

The main thing is this: enforcement. Be more willing to enforce court orders, issue sanctions, require compliance with rules of civil procedure, etc. Fewer lectures telling everyone how they should get along, and more finding, orders, and sanctions enforcing the rules and court orders.

This Commissioner comes across as the "smartest person in the room" and takes a disagreement with an idea as personal. A more calm, empathetic, and open-minded demeanor would go along way with making attorneys and parties more comfortable with an already stressful situation.

I love Peterson. He gets it. He doesn't create unnecessary stress and anxiety about appearing in front of him. He has an excellent courtroom demeanor. He knows how to reality check the litigants in front of them without being a complete ass about it the way Patton was. He is a breath of fresh air.

Commissioner Petersen is doing a great job!

He should set up a little hibachi in court, and we could all make s'mores together.

Follow the statutes and do not use discretion disproportionately or to help one party achieve a particular result.

Exceptional appointment to the bench.

I wish that Comm. Petersen would avail himself of the imposition of sanctions for Order to Show Cause that come before him. Even after several hearings in which there is noncompliance by a litigant in contempt of the court's order, Comm. Petersen still will not impose sanctions. As a result, people generally believe that they can get away with noncompliance forever in his cases. This means that every OSC in which a party remains out of compliance will result in a full evidentiary hearing before the assigned judge at a huge cost in money and time, but with less compelling of compliance

I really appreciate Commissioner Petersen. I might recommend not punting rulings if the parties have scheduled a mediation close to temporary orders. My view is that although mediation is scheduled, parties still need a jurist's opinion at temporary orders and have paid counsel to get to the hearing. Please rule on temporary orders despite a pending mediation between the parties.

Commissioner Petersen strives to exude civility from the bench. His demeanor has a noted affect on members of the bar. While I don't always agree with him, he does strive to abide by the law and issue fair rulings.
excellent Commissioner

Commissioner Petersen is a good guy. But he does not follow precedent. Furthermore, he allows attorneys in his court room to behave in ways that are incredibly unprofessional, and he deviates so far from precedent that even when binding precedent is presented he ignores it in favour of his own rulings. He really needs to brush up on court room decorum and follow binding precedent.

Commissioner Peterson is doing as good a job as anyone could reasonably expect him to do. He is a model commissioner. He has successfully navigated his first couple of years on the bench admirably. Occasionally I feel he punts a bit much, but that's the worst I can say about him (and in fairness I think some of the punting was due to being new to the job and wanting to know how he fits in the pecking order among the judges).
To date, I have always felt I get a fair hearing in front of Commissioner Peterson, even when I lose.

Commissioner Petersen does a great job. He is always prepared for hearings and is very judicious in his demeanor. I appreciate his analytical review of the cases and his willingness to truly reflect on the right order in each case.

Being a commissioner is a thankless and difficult job, Commissioner Petersen does a great job and I appreciate that he is willing to be a commissioner.

Commissioners have a tendency to reserve ruling on important issues facing domestic parties. While that may be a good approach in a low conflict case, it's terrible in a high conflict (HC) case. Not implementing strict adherence to his rulings or issuing sanctions against a contemptuous party, especially when that party has been found to be abusive, the Comm simply empowers the abusive party even further & weakens/erodes the Court's orders, & puts other party in an ongoing position of victimization. Petersen needs to issue sanctions, require order compliance swiftly or it harms the children.

Matters were very often taken under advisement and rulings issued days or even weeks later. This wait was often hard on my clients, and hard on me as it decreased my ability to adequately advise my clients on the next phase of their cases. I would expect this issue to resolve with additional experience, and I do appreciate Commissioner Petersen's obvious desire to get things right.

Honestly, just keep preparing as he has done in the past and continue to be a respectful, considerate commissioner.

His rulings reflect a bias towards the Utah County attorneys. He is more concerned about relationships with law and making rulings based upon facts.

I believe Commissioner Petersen exhibited a favoritism or unfair bias towards pro se litigants. This caused my client to expend too many resources to make the playing field even.

I have no recommendations for improvements. Appearing in Commissioner Peterson's courtroom is always a pleasure.

I've been very impressed with Commissioner Petersen, and appreciate imbuing confidence in the legal system to my clients. Many of my former clients had such unpleasant experiences of hearings that it deterred them from utilizing the forum of the judiciary in matters pertaining to their rights. I've not had a client express a similar sentiment under Commissioner Petersen.

Do better at articulating the legal basis for his decisions. Commissioner Peterson does strive to be a problem solver but sometimes his authority for reaching a particular conclusion is not well articulated or supported.
However, I believe he is a good commissioner who strives to be fair.

ANNUAL PERFORMANCE EVALUATIONS*

***These will be circulated separately.**