

JUDICIAL COUNCIL MEETING

AGENDA

August 19, 2022

Meeting Held Through Webex

Chief Justice Matthew B. Durrant, Presiding

1. 12:55 p.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 1:00 p.m. Chair's Report. Chief Justice Matthew B. Durrant
(Information)
3. 1:05 p.m. State Court Administrator's Report.....Ron Gordon
(Information)
4. 1:10 p.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Budget and Fiscal Management Committee Judge Kara Pettit
Liaison Committee..... Judge Kara Pettit
Policy, Planning, and Technology Committee Judge Derek Pullan
Bar Commission.....Margaret Plane, esq.
(Tab 2 - Information)
5. 1:15 p.m. Office of Innovation UpdateNick Stiles
(Information) Margaret Plane
6. 1:25 p.m. Justice Court ReformJim Peters
(Information) Ron Gordon
7. 1:35 p.m. Budget and Grants..... Karl Sweeney
(Tab 3 - Action) Jordan Murray
Brody Arishita
Todd Eaton
Melissa Taitano
8. 1:50 p.m. Eviction Automatic Expungement OrdersKeisa Williams
(Tab 4 - Action)
9. 2:00 p.m. Deferred Traffic ProsecutionKeisa Williams
(Tab 5 - Action) Michael Drechsel

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|-----|-----------|--|------------------------------------|
| 10. | 2:05 p.m. | Rules for Final Approval | Keisa Williams
(Tab 6 - Action) |
| 11. | 2:10 p.m. | Appointment of Water Law Judges | Shane Bahr
(Tab 7 - Action) |
| 12. | 2:20 p.m. | Commissioner Recertifications | Shane Bahr
(Tab 8 - Action) |
| 13. | 2:25 p.m. | Senior Judge Recertifications | Neira Siaperas
(Tab 9 - Action) |
| 14. | 2:30 p.m. | Old Business/New Business | All
(Discussion) |
| | 2:40 p.m. | Break | |
| 15. | 2:50 p.m. | Executive Session - there will be an executive session | |
| 16. | 3:15 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.

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|----|--|-------------------------------------|
| 1. | CJA Rules 4-202.02 and Appendix B for Public Comment
(Tab 10) | Keisa Williams |
| 2. | Committee Appointments
(Tab 11) | Uniform Fine Committee – Jim Peters |

Tab 1

Agenda

JUDICIAL COUNCIL MEETING
Minutes

July 18, 2022

Meeting conducted through Webex

9:00 a.m. – 11:45 a.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
 Hon. Todd Shaughnessy, Vice Chair
 Hon. Brian Brower
 Hon. Samuel Chiara
 Hon. Augustus Chin
 Hon. David Connors
 Hon. Ryan Evershed
 Hon. Paul Farr
 Hon. Michelle Heward
 Hon. Elizabeth Lindsley
 Hon. David Mortensen
 Justice Paige Petersen
 Hon. Kara Pettit
 Margaret Plane, esq.

Excused:

Hon. Keith Barnes
 Hon. Derek Pullan
 Daniel Meza Rincon

Guests:

Jonathan Adams, OLRGC
 Matthew Barraza, Indigent Defense Commission
 Hon. Dennis Fuchs, Senior Judge
 Juana Gutierrez, Staff Interpreter
 Justice Diana Hagen, Supreme Court
 Holly Langton, Office of Planning & Budget

AOC Staff:

Ron Gordon
 Cathy Dupont
 Michael Drechsel
 Brody Arishita
 Shane Bahr
 Cheri Fifield
 Stacy Haacke
 Alisha Johnson
 Jessica Leavitt
 Tania Mashburn
 Jordan Murray
 Bart Olsen
 Jim Peters
 Jon Puente
 Keri Sargent
 Neira Siaperas
 Nick Stiles
 Karl Sweeney
 Melissa Taitano
 Jeni Wood

Guests:

Miguel Medina, Staff Interpreter
 Justice John Pearce, Supreme Court
 Adam Trupp, Indigent Defense Commission
 Colin Winchester, Tooele County Attorney's Office

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

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

Motion: Judge David Connors moved to approve the June 27, 2022 Judicial Council meeting minutes, as amended to correct minor typographical errors. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

2. OFFICE OF INNOVATION BUDGET REQUEST: (Chief Justice Matthew B. Durrant)

Management Committee meeting

The Management Committee and a representative from the Supreme Court met, pursuant to CJA Rule 3-105 to discuss this particular budget request. The Committee determined that the request implicated the Supreme Court's exclusive authority with respect to the regulation of the practice of law and it implicated the exclusive authority of the Council with budgetary matters. The Committee recommended that the \$200,000 one-time request from the Office be approved, based on the Supreme Court's acknowledgement that this would not serve in any way as precedent for future requests. If approved, this would represent the first time that court money has been used to fund the regulation of the practice of law, which has always been funded through the Utah State Bar. The Council would have the authority to determine any future requests on the merits.

Utah State Bar

Eric Christiansen, Bar President Elect, will hold a meeting in August to discuss whether the Office can be housed in the Bar. The Bar expects a decision in 8-12 months. Judge Connors asked why the Bar needed to determine if the Office is housed there, since it has already been determined that this is part of the regulation of the practice of law. Margaret Plane said the Bar would like the opportunity to go through a deliberative process because of the political nature, in terms of its relationship with its members and the Supreme Court. And, the Bar needs time to address what, if any, rules need to be considered. Ms. Plane stated it would be helpful to allow the Bar this time. Justice Petersen said the Bar recognized that funding would be disrupted if they are moved to a nonmandatory Bar.

Judge Pettit was concerned that if the Council funded the \$200,000, the Bar may not see this as an urgent item for consideration. Chief Justice Durrant said that the Supreme Court respected Bar leadership and felt the better way to conduct business was to request this from the Bar and be patient during their consideration. Ms. Plane will convey the urgency of this issue to the Bar.

Budget and Fiscal Management Committee (BFMC) meeting

Judge Pettit summarized the BFMC actions regarding the one-time request for \$200,000 for the Office. The BFMC supported the use of the ARPA funds in the amount of \$324,500 to assist with the gap in funding for the Office until a permanent home for the Office can be found. The BFMC chose to wait on the \$200,000 because it appears as though there is currently sufficient funding to allow operations through this fiscal year and the Office is waiting to hear if they will receive a grant for their additional needs. If the grant funding is not approved, the Office can ask the BFMC to approve the additional \$200,000. Judge Pettit thought it would be financially prudent to postpone the decision to approve the additional \$200,000 and noted that one-time funding requests are sent to the BFMC regularly. If the Council approves the \$200,000,

now, they would be making that prioritization without knowing what other requests may come in for the remainder of the fiscal year.

Proposed new Stand Together Foundation grant

Nick Stiles was unsure as to when they would be notified on whether the Office will be awarded the \$975,000 grant funds from the Stand Together Foundation. Mr. Sweeney indicated that the Office's current funds would only last about 1.25 years. Mr. Stiles explained that the Office still has some funds left over from their original grant and the use of the ARPA funds that were approved. He stated that if the grant was approved, the \$200,000 would be returned. Justice John Pearce pointed out that people recognize that so far, the Office's funds have come from outside sources and believed that the Office may have a better chance at receiving grants if the courts showed a level of commitment. Judge Pettit wondered if Stand Together would reduce the proposed amount by \$200,000 if the Council approved this funding. Judge Connors said it was inaccurate for people to believe that the Office has only been funded by outside entities since the Council approved ARPA funds. Judge Connors asked if it would be possible to postpone a decision on the \$200,000 for 30 days to allow time for the grant to possibly be approved. Justice Paige Petersen saw a problem with waiting because the grant decision may take longer and the Office doesn't feel like the courts are supporting them. Mr. Stiles wondered if the money that is available now might be used on other budget requests and not may be available in 30 days.

Motion: Judge Pettit moved to defer the \$200,000 one-time carryforward budget request pending an answer on the grant with the understanding that if it takes too long to receive word back on the grant, the Council can readdress the request. Judge Chiara seconded the motion, and it passed with Judge Pettit, Judge Chiara, Judge Connors, Judge Lindsley, Judge Heward, Judge Evershed, and Judge Shaughnessy voting in favor of the motion and Judge Mortensen, Judge Brower, Judge Farr, Ms. Plane, and Justice Petersen opposed to the motion.

Chief Justice Durrant thanked everyone for their careful consideration of this issue. This item will be placed on each Council agenda for updates until this issue is resolved.

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

Chief Justice Durrant was thrilled to announce that Judge Jill Pohlman has been nominated to serve on the Supreme Court.

4. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

Ron Gordon noted that Judge Pohlman's confirmation hearings will take place on July 19th with the second hearing being held the following week. Mr. Gordon thanked Michael Drechsel for his work on the judicial compensation request that will be presented to the Elected Officials and Judicial Compensation Commission. The compensation request focused on the changing nature of compensation in the legal market in Utah, the changing complexity of cases, and the decrease in the number of judicial applications over the past couple of years.

The Green Phase Workgroup established the virtual/in person hearings, district and justice court issues, rules, and general best practices subcommittees. They will meet monthly until their work is done, which is estimated to be in September. The most likely outcome will be

to recommend factors for judges to consider when deciding whether to hold virtual or in person hearings.

There are eight people who will attend the 2022 CCJ/COSCA Western Region Summit in September. The Summit will focus on virtual hearings. The Office of Fairness Committee has started working on their strategic planning process. Mr. Gordon thanked Cathy Dupont for her extraordinary leadership and the incredible legacy she leaves behind. Chief Justice Durrant expressed a sense of personal gratitude for her work in very turbulent waters. Ms. Dupont will miss working for the courts and looks forward to her retirement.

5. SELECTION OF EXECUTIVE COMMITTEE – JUDGE BRIAN BROWER: (Ron Gordon)

The Management Committee approved placing Judge Brian Brower on the Liaison Committee to fill Judge Brook Sessions' seat. Judge Brower has a history of working with legislative issues and will be a great addition to the committee.

Motion: Judge Mortensen moved to approve placing Judge Brian Brower on the Liaison Committee, as presented. Judge Farr seconded the motion, and it passed unanimously.

6. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

The work of the committee will be addressed later in this meeting.

Liaison Committee Report:

Judge Kara Pettit noted issues that are being studied include preliminary hearings, debt collection from the Bar Foundation report, restitution, and justice court reform. Judge Pettit welcomed Judge Brower to the committee.

Policy, Planning, and Technology Committee Report:

Judge Derek Pullan was unable to attend.

Bar Commission Report:

The Bar Commission appreciated the judges who participated in the Bar's Summer Convention. There are 300 Bar applicants, the most applicants received since 2016 when there were 285. Ms. Plane reported that the Bar is seeking an interlocutory appeal on a challenge to the integrated Bar.

7. PROBLEM SOLVING COURT RECERTIFICATION AND CHECKLIST: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs presented the Council with the following proposed amendments to both the Family Dependency Checklist and the Juvenile Court Checklist. Move Presumed item #37 to the Non-Certification Related Best Practices with rewording it to "new referrals are monitored for at least three years following each

participant's entry into the Family dependency court." The Policy, Planning, and Technology Committee and the Board of Juvenile Court Judges approved the changes.

Motion: Judge Heward moved to approve item #37 wording change and relocate it from the Presumed to the Best Practices section, as amended to include that Judge Fuchs or whomever will be overseeing PSCs in the future, determine the criteria that family dependency courts should be used and make appropriate changes. Judge Lindsley seconded the motion, and it passed unanimously.

Judge Fuchs requested certifying the Adult Drug Court in Carbon County that was tabled at the last Council meeting.

Motion: Judge Shaughnessy moved to approve the Adult Drug Court in Carbon County. Judge Chiara seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge Fuchs.

8. INDIGENT DEFENSE COMMISSION (IDC) REPORT: (Matthew Barraza)

Chief Justice Durrant welcomed Matthew Barraza, who was appointed as the Executive Director in October 2021. The IDC's Indigent Appellate Defense Division has dramatically increased the number of appeals filed from Utah's rural counties. Appeals have increased by 52% since the fall of 2020.

The IDC has continued to embrace technological advances to provide statewide virtual training sessions. For FY 2023, IDC awarded more than \$6.3 million in state funding to 20 counties and 2 cities. This increases accountability in these indigent defense systems, which handle 95% of all court-appointed district court cases statewide. In addition, indigent defense services in Daggett County are provided by Uintah County, a current IDC grant recipient.

Key improvements in organizational capacity this year:

- All counties that receive IDC funding now have a clearly identified managing defender involved in their indigent defense systems
- 14 managing defenders are overseeing indigent defense services in 20 of the state's 29 counties
- The IDC adopted a "Managing Defender Manual" as an informal guide on managing defenders' responsibilities
- 13 IDC grant-funded administrative assistants support 17 of the state's counties
- The IDC has leveraged federal JAG funding to offer case management software to indigent defense systems
- All indigent defense systems receiving IDC funding are reporting financial and programmatic progress data to the state

In January 2021, the IDC implemented a System Needs Evaluation and an Attorney Caseload Survey where grant recipients report quantitative and qualitative information and how they align with IDC's core system principles. They created the Parental Defense Social Worker Project to assist parents to comply with reunification plans.

Mr. Barraza said they are now accepting post-conviction relief cases (PCRA). Judge Pettit was pleased that the Legislature now allows the courts to refer PCRA cases to the IDC office. Referrals for PCRA cases need to be sent by email.

Judge Chiara asked about non-participating rural counties. Mr. Barraza said the IDC contacts every county, however, this is voluntary and some of the smaller counties have chosen not to participate. Mr. Barraza confirmed that the defense contracts for non-participating counties are not being monitored. Mr. Barraza said there are resources available for interpreters, one of which is a fairly new language interpreter phone line program, that facilitates meetings between the attorney and client.

Chief Justice Durrant thanked Mr. Barraza.

9. DISSOLUTION OF THE STOCKTON JUSTICE COURT: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters sought the Council's approval for the dissolution of the Stockton Justice Court, pursuant to Utah Code § 78A-7-123. Dissolution of Justice Courts. Statute requires a one-year timeframe minimum to dissolve a justice court, however, the Stockton Justice Court requested dissolution effective immediately because they are currently without a judge or clerk. The initial interlocal agreement between Stockton Justice Court and the Tooele County Justice Court fell through. The reason for the dissolution is that the Town Council determined that the court no longer justifies its costs. Stockton's cases will be moved to the Tooele County Justice Court. The Tooele County Justice Court expressed that this will not be an issue.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Farr moved to approve dissolving the Stockton Justice Court, effective immediately, as presented. Judge Brower seconded the motion, and it passed unanimously.

10. JUSTICE COURT TECHNOLOGY, AND SECURITY AND TRAINING (JCTST) ALLOCATIONS FOR FY 2023: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. The Fund is defined by Utah Code § 78A-7-301. Justice Court Technology, Security, and Training Account Established -- Funding -- Uses and CJA Rule 9-107 Justice Court Technology, Security, and Training Account. The Fund balance increases with the collection of the security surcharge assessed on moving violations and certain other offenses. The Fund balance decreases as money is allocated to local government and state entities involved in operating or supporting one or more justice courts.

Typically, applications are solicited each year from justice courts throughout the state. The Board of Justice Court Judges reviews and recommends requests to the Council. Because the services provided by the AOC benefit all justice courts, the AOC receives the majority of each year's allocation. The Fund is generally managed so that the allocation for the coming year is capped at the amount of collections expected for the current year. That practice presents a challenge for FY 2023, as collections for FY 2022 are expected to be between \$675,000 and \$725,000. This amount is insufficient to cover the \$823,835 budget requests submitted. There remains a deficit between the funding needed to serve the justice courts and the amount that

would typically be allocated from the Fund. To make up the difference, the Board recommended either allocating more from the Fund than is expected to be collected in FY 2022 by spending into the Fund's \$676,115 balance or authorizing \$118,343 in carryforward funds from the courts general fund.

Mr. Peters said this deficit occurred last year as well and that there is no way to determine if the trend will continue with justice court reform looming. If this happens again next year, they will hold additional conversations about this being supported by the courts general fund. Judge Pettit said the BFMC discussed long-term plans for this account.

Requests for One-Time Funding

#	Requesting Entity	Description	Original Grant Request	Recommend One-Time Grant Funds	Recommend Ongoing 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	Google Accounts for Justice Court Judges and Clerks	\$51,627	\$26,010		Originally calculated as 578 licenses @ \$96.68 each, but Council covered all but \$26,010
3	AOC/Information Technology	CORIS Infrastructure for Justice Courts	\$155,647	\$155,647		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	\$8,000	\$0		Funding for an overnight program for 15 judges
6	AOC/Judicial Institute (Education)	Small Claims Training for Judges Pro Tem	\$1,000	\$1,000		Small claims training provided twice each year for judges pro tem
7	Board of Justice Court Judges	Trust and Confidence Committee	\$0	\$0		Funding for outreach/CLE presentations to build trust and confidence in Justice Courts
8	Board of Justice Court Judges	Computer Equipment for Judges	\$25,000	\$20,000		Funding for the cost of computer equipment for the judges
9	Board of Justice Court Judges	District Trainings	\$10,000	\$8,000		Funding to provide lunch at district level training for judges and clerks @ \$16 each
10	Board of Justice Court Judges	Financial Assistance for Active Senior Judges to Attend the Spring Conference	\$2,500	\$3,000		Five active senior judges @ \$600 each
11	Board of Justice Court Judges	Out-of-State Training Fund	\$20,000	\$20,000		Funding for out-of-state training and other educational opportunities
12	Board of Justice Court Judges	Stipend for Education Liaison	\$1,500	\$1,500		Education Committee members will receive \$1000 but the chair receives nothing
Total One-Time Grant Requests for FY22			\$529,160	\$489,043	\$0	

Ongoing Funding

Requesting Entity	Description	Original Grant Request	Recommend One-Time Grant Funds	Recommend Ongoing Grant Funds	Notes
AOC/Audit	Internal Audit Position Dedicated to the Justice Courts	\$78,700		\$78,700	Cost of one auditor
AOC/Information Technology	Webex Licenses and Support	\$20,000		\$20,000	Covers the partial cost of Webex licenses used by justice courts
AOC/Judicial Institute	Education Coordination Fee	\$50,000		\$50,000	Coordination of all justice court events with personnel from Education
AOC/Judicial Institute	Justice Court Education Coordinator	\$55,000		\$55,000	Funding for half of the Justice Court Education Coordinator
AOC/Judicial Institute	New Judge Orientation	\$3,500		\$3,500	Estimated cost of orientation for new justice court judges up to three times per year
AOC/Judicial Institute	Justice Court Clerks' Conference	\$16,500		\$16,500	Estimated cost of providing an in-person conference to 350 clerks
AOC/Judicial Institute	Justice Court Judges' Conference (Spring)	\$31,300		\$31,300	Estimated cost of providing an in-person conference to 77 judges in spring 2023
AOC/Judicial Institute	Annual Judicial Conference (Fall)	\$15,675		\$25,300	Estimated cost of having 77 judges attend the Annual Judicial Conference (with \$125 registration fee)
Statutory	Compensation for Presiding and Associate Presiding Judges	\$24,000		\$24,000	SB00098 requires that PJs receive \$2000 and APJs receive \$1000
Total Ongoing Grant Requests		\$294,675	\$0	\$304,300	

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Connors moved to approve the JCTST funding request, as presented. Judge Farr seconded the motion, and it passed unanimously.

11. JUSTICE COURT REFORM: (Jim Peters and Ron Gordon)

Chief Justice Durrant welcomed Jim Peters and Ron Gordon. Judge Farr and Mr. Drechsel met with the Judiciary Interim Committee (JIC). The discussion evolved and the JIC opened a bill file, rather than previously only identifying justice court reform as a study item. In terms of how this would be implemented, the courts recommended rolling out reform efforts beginning with the Third District Court in 2024 then adding districts every year or two. Mr. Peters noted that the Liaison Committee has not taken a formal position on the implementation recommendation.

Judge Shaughnessy asked why the recommendation would be to implement changes in the largest district. Mr. Peters explained that the benefit to starting in a large district would include first and second class counties where justice court judges have law degrees, whereas, it may be more difficult to implement the changes in counties where judges don't have a law degree. Judge Farr said all of the justice courts are full time, with the exception of three. Courts that already look like a court of record may find it easier to transition than to use a part time court with a non-degree judge. Everyone that has participated in these discussions has viewed this as a wise course of action. Mr. Drechsel said there is still a lot of input needed from the Legislature and reminded everyone that this hasn't been approved yet. The proposals were well-received from the public hearing and the JIC. Sponsors have requested additional input for a phased rollout. Mr. Drechsel informed the Council that a handful of legislators want some of the changes to happen with the next legislative session.

Chief Justice Durrant thanked Mr. Peters and Mr. Gordon.

12. JUDICIAL COUNCIL APPROVED FUNDING SUMMARY: (Ron Gordon and Cathy Dupont)

Chief Justice Durrant welcomed Ron Gordon and Cathy Dupont. A review of the Council approved funding and spending was presented. Mr. Sweeney explained that any leftover funds would be used for building reserves in the trust account. The funds will be used until the courts can get to the point where the courts can charge credit card charges, which is estimated to be around the end of 2023.

Chief Justice Durrant thanked Mr. Gordon and Ms. Dupont.

13. BUDGET AND GRANTS: (Karl Sweeney, Alisha Johnson, Cheri Fifield, Lauren Andersen, Jessica Leavitt, and Jordan Murray)

Chief Justice Durrant welcomed Karl Sweeney, Alisha Johnson, Cheri Fifield, Jessica Leavitt, and Jordan Murray. The courts total available one-time funds were \$3,447,900 and the total available ongoing funds were \$1,193,690.

Supplemental Request to Fund Diversity, Equity and Inclusion Training in FY 2023

\$25,000

One-time funds

In June 2022, the Education Committee recommended that CJA Rule 3-403(3)(A) be amended to require staff and judges to attend a course on ethics, harassment, diversity and inclusion. To offer in-person, consistent, court-specific trainings on diversity and inclusion, Education requested to supplement its FY 2023 budget.

Motion: Judge Shaughnessy moved to approve the Supplemental Request to Fund Diversity, Equity and Inclusion Training in FY 2023 request for \$25,000 in one-time funds, as presented. Judge Pettit seconded the motion, and it passed unanimously.

Carryforward Bar Foundation Grant for Teen Website Development

\$12,000

One-time funds

The Bar Foundation gave \$20,000 to the Divorce Education for Children Program to develop an educational website for teens experiencing parental separation. The website is being developed. The program has spent \$8,000 to date and plans to spend the remaining \$12,000 in 2023, as the website has an expected completion of September FY 2023.

Motion: Judge Connors moved to approve the Carryforward Bar Foundation Grant for Teen Website Development for \$12,000 in one-time funds, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Staff Interpreter Pay Increases

For FY 2023, it was determined that staff interpreter pay was substantially below market, which has resulted in 2 of the 4 staff interpreter positions being unfilled for multiple years. The market based pay for these positions for FY 2022 was \$30.07 per hour. For FY 2023, the recommended market based pay is \$36.07 per hour. This pay increase is cost-neutral to the courts as the proposed market pay increase of \$6 per hour will be 100% funded by the elimination of 1 of the 4 staff interpreter positions. Further, one of the remaining unfilled positions has been converted to the Language Access Coordinator position.

JWI Budget Rate Increase for Contract Court Interpreters

As with the Staff Interpreters, the contract court interpreters are paid from the JWI fund so there is no general fund budget impact for these pay increases. Since most interpreters serve their courts remotely, the primary reason to conduct an annual survey of nearby contract court pay is to prevent contract court interpreters from being lured away by higher offers from nearby states. The pay ranges noted were from \$25 to \$50 per hour. The Language Access Committee requested the following hourly pay adjustments for Contract Court Interpreters to be effective July 1, 2022:

Credential Level	Contract Rate FY 2022	Proposed Contract Rate FY 2023
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Certified	\$47.76	\$50
Approved	\$40.93	\$41
Registered	\$40.93	\$41
Conditionally Approved	\$22.28	\$23

The JWI fund has approximately \$1 million in carryforward funds that can be used to cover the \$80,000 of impact this pay hike for contract court interpreters is forecasted to have.

Chief Justice Durrant thanked Mr. Sweeney, Ms. Johnson, Ms. Fifield, Ms. Leavitt, and Mr. Murray.

Motion: Judge Shaughnessy moved to approve the pay increase of staff interpreters to \$36.07 and the increase for the contracted interpreters as identified in the chart above, as presented. Judge Connors seconded the motion, and it passed unanimously.

14. SENIOR JUDGE CERTIFICATION: (Cathy Dupont)

Chief Justice Durrant welcomed Cathy Dupont. Judge Heward applied to be an Active Senior Judge. She does not have any outstanding complaints after a finding of reasonable cause with the Judicial Conduct Commission or the Utah Supreme Court. (CJA Rule 11-201(2)) Judge Heward has met all other criteria required.

Chief Justice Durrant thanked Ms. Dupont.

Motion: Judge Connors moved to approve sending Judge Michelle Heward's active senior judge certification request to the Supreme Court for consideration, as presented. Judge Shaughnessy seconded the motion, and it passed with Judge Heward abstaining.

15. RECOGNITION OF OUTGOING JUDICIAL COUNCIL MEMBER – JUDGE MICHELLE HEWARD: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant thanked Judge Michelle Heward for her service to the court and on the Council. Judge Heward has appreciated her time on the juvenile bench and is grateful for her time on the Council. She thanked the Council members and wished everyone the best.

16. OLD BUSINESS/NEW BUSINESS

No additional business was discussed.

17. EXECUTIVE SESSION

Motion: Judge Shaughnessy moved to go into an executive session for the purpose of discussing a litigation matter. Judge Connors seconded the motion, and it passed unanimously.

After the executive session, the following motion was made.

Motion: Judge Shaughnessy moved to approve a legal services contract with Snow, Christensen, and Martineau Law Firm for the purposes of legal representation for the Supreme Court. Judge Farr seconded the motion. Chief Justice Durrant recommended a reference to the Council in the motion. Judge Shaughnessy amended his motion to the representation of the Supreme Court

paid for by the Council, and if it's determined that the Council is necessary to be a client of the firm, that the Council could be represented as well. But, the relationship between the firm and the Council would otherwise be akin to a relationship between a party and the party's insurer. Judge Farr renewed his second on the motion, and it passed unanimously.

18. CONSENT CALENDAR ITEMS

- a) Forms committee Forms. Eviction Mobile Home Summons; Acknowledgement of Firearm Restrictions; Petition to Expunge Civil Protective Order or Civil Stalking Injunction; Order on Petition to Expunge Civil Protective Order or Civil Stalking Injunction; Petition to Expunge Eviction; Objection to Petition to Expunge Eviction; and Order on Petition to Expunge Eviction. Approved without comment.
- b) Rules for Public Comment. CJA 4-208. Automatic expungement of cases; CJA 4-403. Electronic signature and signature stamp use; and CJA 9-107. Justice court technology, security, and training account. Approved without comment.

19. ADJOURN

The meeting adjourned.

Tab 2

Agenda

**JUDICIAL COUNCIL'S
MANAGEMENT COMMITTEE**

Minutes

August 9, 2022

Meeting held through Webex

12:00 p.m. – 1:30 p.m.

Chief Justice Matthew B. Durrant, Presiding

Committee Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Todd Shaughnessy, Vice Chair
Hon. Paul Farr
Hon. David Mortensen

Excused:**Guests:**

Hon. Derek Pullan, Fourth District Court
Justice Paige Petersen, Supreme Court

AOC Staff:

Ron Gordon
Neira Siaperas
Michael Drechsel
Brody Arishita
Shane Bahr
Kristene Laterza
Meredith Mannebach
Tania Mashburn
Daniel Meza Rincon
Jim Peters
Nick Stiles
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.

Motion: Judge Paul Farr moved to approve the July 12, 2022 Management Committee minutes, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

2. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

Ron Gordon informed the committee that Chief Justice Durrant, Michael Drechsel and Mr. Gordon's meeting with the Elected Official Compensation Commission went well. The Commission requested input on the judicial salary increase amount from the courts. The courts recommended the increase in the range of 20%. The courts and the Commission spent time discussing the shifts in the legal market income, recognizing that increased pay rates in the private sector has affected many entities, such as, the University of Utah.

3. COMMITTEE APPOINTMENT UNIFORM FINE COMMITTEE: (Jeni Wood)

The Uniform Fine Committee recommended the reappointment of Judge Jon Carpenter and the appointment of Judge Brendan McCullagh, Judge Ryan Richards, and Judge Barbara Finlinson.

Motion: Judge Shaughnessy moved to approve the reappointment of Judge Jon Carpenter and the appointment of Judge Brendan McCullagh, Judge Ryan Richards, and Judge Barbara Finlinson to the Uniform Fine Committee, and place this on the Judicial Council consent calendar, as presented. Judge Farr seconded the motion, and it passed unanimously.

4. JUSTICE COURT REFORM: (Jim Peters and Ron Gordon)

Jim Peters informed the committee that the Justice Court Workgroup is meeting every other week. They have continued their outreach efforts, including meeting with the TCEs, who are considered critical partners in this process. They are addressing management structure and physical court locations. Mr. Peters and Judge Farr met with the Utah League of Cities and Towns. As word spreads throughout the legal community about the reform efforts, city administrators are becoming increasingly concerned. The workgroup is working to ensure judges and clerks that they will do everything they can to preserve jobs.

The fiscal note is still being created. It appears as though the work of the division courts would account for approximately 19 district court judges. Ultimately, through attrition, if everything were to be implemented as proposed, there would be 19 fewer district court judges needed, a \$6 million savings. There would be a need for 61 division court judges and just under 260 judicial assistants, at a cost of approximately \$17 million for judges and just under \$26 million for the judicial assistants. These changes would result in a net cost of \$37 million, which doesn't account for the facilities. Chris Talbot continues his work to identify court locations that would be feasible in this effort.

These values do not take into consideration the potential for two new appellate judges and staff. Judge Mortensen pointed out that the original proposal would allow cases to be appealed to the Court of Appeals.

Mr. Peters confirmed that this proposal includes having all class A misdemeanors transferred to the division courts. Judge Shaughnessy did not believe these cases should be transferred to the division courts because class A misdemeanors have a requirement for a preliminary hearing and the nature of the offenses are much closer to a third degree felony than they are a class B misdemeanor. He thought it was important to resolve this issue soon due to the financial impact. Judge Farr said the workgroup, in consideration of class A misdemeanors, third party debt collection and eviction cases, is trying to gather data to better identify a fiscal impact. He understood that class A misdemeanors have a smaller financial impact than the debt collection and eviction cases. He believed the data should be gathered before recommendations can be addressed. Mr. Peters explained that the workgroup's proposal will be addressed with the Council before it is addressed with the Legislature.

Judge Shaughnessy said problem-solving courts may not be supported by staff if all of the class A misdemeanors were transferred to the division court. He wanted the committee to understand the impact.

Mr. Peters said in addition to the outreach efforts, the workgroup is creating focus groups, in conjunction with the National Center for State Courts, that will seek feedback on various issues. Judge Farr said there were core recommendations, such as, eliminating de novo appeals. Whereas, transferring class A misdemeanors seemed to be of lessor concern.

5. EVICTION AUTOMATIC EXPUNGEMENT ORDERS: (Keisa Williams)

Utah Code § 78B-6-852, Automatic Expungement of Evictions, went into effect on July 1, 2022 and the code section governing automatic expungements in criminal cases changed during the 2022 session from Utah Code § 77-40-114 to Utah Code § 77-40a-2. In accordance with CJA Rule 4-208(3)(D), the Council must approve the form and content of automated orders of expungement.

The Policy, Planning, and Technology Committee reviewed and approved the form and content of the proposed orders, but the vote was not unanimous. Judge Pullan voted in opposition in accordance with his long-standing philosophical objection to automated orders. Judge Pullan noted that if the Council decides to go down this road, it should ensure regular audits are conducted to track the error rate.

Proposed eviction-related amendments to CJA Rules 4-208 and 4-403 were approved by the Council for public comment in July, but Ms. Williams postponed posting those in anticipation of this discussion.

Motion: Judge Shaughnessy moved to add this item to the Judicial Council agenda, as presented. Judge Farr seconded the motion, and it passed unanimously.

6. DEFERRED TRAFFIC PROSECUTION: (Keisa Williams and Michael Drechsel)

HB 139 Traffic Violation Amendments and revisions to Utah Code § 77-2-4.2 Compromise of Traffic Charges -- Deferred Prosecution of Traffic Infractions -- Limitations. , Deferred Traffic Prosecution, goes into effect on October 1, 2022. The amendments and orders authorize the AOC to implement automated processes and automatically affix signatures without judicial review, similar to the clean slate and eviction expungement processes. Michael Drechsel said most tickets are paid, which total approximately \$200,000 - \$300,000 per year. The AOC is creating an online application process to automatically expunge these citations.

The statute contemplates an administrative fee to be paid by participants to cover costs associated with the development and implementation of the system. Section (5)(h)(i) states that the “Judicial Council shall set and periodically adjust the fee ... in an amount that the Judicial Council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program ...” The use of automated orders will help keep the administrative fee lower and more cost effective for court patrons.

Regardless of whether the Council approves the use of an automated or manual system, the Council will need to set an initial administrative fee to cover costs associated with administering the program and rely on AOC staff to provide periodic reports and recommendations on necessary adjustments. The AOC estimates that a \$5.00 fee is necessary to cover the initial implementation and operation costs.

Judge Farr asked about how many courts are not using the e-pay system. Mr. Peters anticipated that about half of the justice courts do not use e-pay. Judge Farr was concerned because justice courts are giving up the plea in abeyance fee with this new process but still doing the same amount of work when people contact the courts to pay their fine. Mr. Drechsel said this was discussed, there wouldn't be new work but they recognized that the courts would accept the fee just as they would have accepted a fine payment. They were hopeful that this would result in savings for all court locations, but the savings may not be fully realized in those courts that do not offer e-pay. Mr. Drechsel explained that the primary barrier in all courts not using e-pay is that local government entities prefer to have full authority over the accounting of those funds. Mr. Peters is working to gather the information on e-pay in the justice courts. They are encouraging people to switch to the courts e-pay system.

Mr. Drechsel said the clerks will not need to track the cases as payments come in. This will be an automatic process. The clerks would only need to manually input the payment. The system is designed to put a disposition on that traffic offense, where the backend process will then determine if the case could be automatically dismissed after 12 months or would need to remain on someone's record if they did not qualify for the automatic dismissal.

In accordance with CJA Rule 4-208(2)(C) and (3)(D) Automatic Expungement of Cases, the Council must approve all automated processes developed by the AOC and the form and content of automated orders. The Policy, Planning, and Technology Committee reviewed and approved the form and content of the proposed orders and rule amendments.

Motion: Judge Shaughnessy moved to add this item to the Judicial Council agenda, as presented. Judge Farr seconded the motion, and it passed unanimously.

7. APPROVAL OF ANNUAL BUDGET AGENDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant addressed the Annual Budget agenda.

Motion: Judge Farr moved to approve the Annual Budget agenda, as amended to add Judge Pullan's item. Judge Shaughnessy seconded the motion, and it passed unanimously.

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

Chief Justice Durrant addressed the Judicial Council agenda.

Motion: Judge Farr moved to approve the Judicial Council agenda, as amended to add the Appointment of Water Law Judges. Judge Shaughnessy seconded the motion, and it passed unanimously.

9. OLD BUSINESS/NEW BUSINESS

Judge Derek Pullan recognized that his term on the Council will end in September and wanted to address Article VIII Judicial Department, Section 4 Rulemaking Power of Supreme Court -- Judges Pro Tempore -- Regulation of Practice of Law Responsibilities. He believed a procedure should be in place for the separation of powers between the Council and the Supreme Court (Court). This would hopefully avoid any constitutional issues when there are overlapping responsibilities between the Council and the Court.

Judge Pullan said the Supreme Council and the Court are constitutionally created bodies with individual defined roles. Under Article VIII, Section 4, the Court has exclusive authority for rule making, governing the practice of law, authorizing retired judges, judges pro tempore, and managing the appellate process. The Council is responsible for adopting rules for the administration of the Judiciary and has the exclusive authority over the courts budget of funds allocated by the Legislature. Judge Pullan stated that Chief Justice Durrant has the constitutional responsibility to implement the rules adopted by the Council. Judge Pullan believed that the Council is constitutionally obligated to ensure the Court has funds to meet the Courts Article VIII responsibilities.

Judge Pullan proposed, for the current year, that the Court prepare and submit an Article VIII, Section 4 budget to the Council at their Annual Budget Meeting. The Council could then internally designate funds for the Court. However, in future years, he thought the Court needed to recognize that one-time and ongoing funds are limited and that in any year, those funds may need to be allocated by the Council to competing priorities. He firmly believed, the Court does not stand in the same position as any other department in the Judiciary, therefore, an independent budgetary process might be devised that recognizes the Court's constitutional and exclusive responsibilities.

Judge Pullan will make a motion during the upcoming Annual Budget meeting that the Council proceeds with his proposal. Chief Justice Durrant recommended this be addressed by the Annual Budget meeting prior to including this on the Council agenda. Judge Pullan's intent is to summarize his proposal to each Council member prior to the Council meeting. Justice Paige Petersen attended the meeting as the Supreme Court representative and point of contact for Judge Pullan. Chief Justice Durrant was very thankful for Judge Pullan's initiative on this issue.

Judge Shaughnessy supported adding this to the agenda as an action item. Judge Shaughnessy would like to see a more detailed proposal to better understand the purpose, noting that he was not supportive of a proposal where the Council provides a certain sum of money to the Court. He supported having the Court communicate with the Council about their budget priorities.

Chief Justice Durrant explained that Justice John Pearce conducted research of the Council's funding responsibilities. Chief Justice Durrant summarized Justice Pearce's view, stating that it's wrong conceptually to think of the Council funding the Supreme Court's responsibilities. In an ideal world, the Court would approach the Legislature separately to fund its constitutional responsibilities. And the Council would approach the Legislature to request

funding for their constitutional responsibilities. However, Justice Pearce recognized that this may not be practical and not in the Judiciary's best interest; believing it was better for the Council and the Court should coordinate funding requests to the Legislature.

Justice Pearce found nothing in the constitution, statute or rules that gives the Council authority to oversee the Courts Section 4 responsibilities and thought that if the Council held the funds, with respect to those responsibilities, the Council would be in a position to influence and oversee those responsibilities. CJA Rule 3-105 Administration of the Judiciary, section (3)(A) states "the Judicial Council has exclusive authority for the administration of the judiciary, including authority to establish and manage the budget" with the exception of the Court's "exclusive authority to adopt rules of procedure and evidence to be used in courts of the State, to manage the appellate process, to authorize retired justices, judges, and judges pro tempore to perform judicial duties, and to govern the practice of law in the State." (CJA Rule 3-105(2))

Chief Justice Durrant found no flaws in Justice Pearce's interpretation and recommendation. Judge Shaughnessy said they would need to revisit their "one voice" rule if the Council and Court independently submitted legislative requests. He further noted, that under Justice Pearce's view, the Court's funding would come directly from the Legislature so they would never use carry forward and other court funds. Those funds have not been appropriated by the Legislature for the Court's purposes so they would not be available to them.

In reality, Judge Shaughnessy stated, the Council could fund a request from the Court with one-time funds. Chief Justice Durrant emphasized that Justice Pearce preferred to speak with "one-voice". He further stated that carry forward funds result from allocations that went to all of the courts under the current paradigm, including the Supreme Court. Chief Justice Durrant saw this as a conceptual analysis but as a practical matter, the Council and Court need to work through this in accordance with Rule 3-105.

Chief Justice Durrant hoped that Judge Pullan's plan is initiated by the Council for this year and they hold further discussions throughout the year to decide how the process should be handled for the next budget session.

10. EXECUTIVE SESSION

An executive session was held.

11. ADJOURN

The meeting adjourned.

Agenda

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING and TECHNOLOGY COMMITTEE
MEETING MINUTES**

Webex video conferencing
July 8, 2022: 12 pm -2 pm

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Derek Pullan, <i>Chair</i>	•		Judge Dennis Fuchs
Judge Augustus Chin	•		Jim Peters
Judge Samuel Chiara	•		Keri Sargent
Judge David Connors		•	Paul Barron
Judge Michelle Heward	•		STAFF:
			Keisa Williams
			Brody Arishita
			Minhvan Brimhall

(1) Welcome and approval of minutes:

Judge Derek Pullan welcomed committee members and guests. The committee considered the minutes from the June 3, 2022 meeting. With no changes, Judge Heward moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

(2) Family Dependency, Mental Health, and Juvenile Drug Court Certification Checklist:

Under Presumed Certification Criteria #37, treatment courts are required to track new arrests, new convictions, and new incarcerations for at least three years following each participant's entry into the program. Judge Fuchs is requesting that Presumed Certification Criteria #37 be moved under the Non-Certification Related Best Practice Standards in the certification checklists for the Family Dependency, Mental Health, and Juvenile Drug Courts. It would remain a requirement for Adult Drug Courts. Adult Drug Courts can meet this criteria, but Mental Health Courts, Juvenile Courts, and Family Drug Courts cannot. In most cases, those courts are not dealing with criminal offenses. The packet includes the Family Dependency checklist only. The proposed amendment to the other checklists is identical.

Judge Heward expressed concern that family recovery court does not deal with arrests and convictions and moving the requirement to another section of the program is not best practice because it does not apply to the program. The proposed language would apply to the juvenile delinquency court but not to the family recovery court. The court does not have national data to suggest that the requirement would meet best practice standards and having it as part of the requirements may not bring the family recovery court into compliance. Judge Heward recommends moving the treatment requirements out of the presumed criteria section and into the recommendation section and that research be conducted to consider best practice standards from a national stand point. Judge Fuchs will make contact with the NCSC for research studies on best practices in the juvenile delinquency court. Judge Pullan noted that tracking recidivism rates of participants would be an important measure. Are juveniles in family recovery court more successful in the future for having participated?

Following further discussion, Judge Heward moved to place item #37 from the Presumed section to the non-certification best practice standard; with the direction that the new problem solving court coordinator research whether this is a national best practice and report back to the Committee and the Council on the best data to

inform the success of these courts. Judge Chin seconded the motion. The motion passed with a three to four vote, with Judge Pullan voting against the motion.

A second motion was made by Judge Chiara to amend the Juvenile Drug Court checklist to include adjudications. Judge Chin seconded the motion. The motion passed unanimously. The certification checklists will go to the Judicial Council for further discussion and approval.

(3) CJA 9-107. Justice court technology, security, and training account.

Following the creation of the Budget and Fiscal Management Committee, the approval process for allocations from the Justice Court Technology, Security and Training Account was modified. The proposed amendments codify a change in practice that was implemented a few years ago and brings the rule into current practice. The rule is ready for approval for a 45-day public comment period.

With no further discussion, Judge Chin moved to send CJA 9-107 to the Judicial Council for approval for a 45-day public comment period. Judge Heward seconded the motion. The motion passed unanimously.

(4) Automatic Expungement (Evictions).

- Automatic expungement order for Evictions
- Standing order (Combined)
- CJA 4-208. Automatic expungement of cases
- CJA 4-403. Electronic signature and signature stamp use
- Correction to automated criminal orders

New code section 78B-6-852, Automatic Expungement of Evictions, went into effect on July 1, 2022 and the code section governing automatic expungements in criminal cases changed during the 2022 session from 77-40-114 to 77-40a-2. The proposed rule amendments account for those changes. Several definitions were removed from rule 4-208 because those terms are not used in the rule. That change is not intended to be substantive.

The process of automatic expungement has already begun in criminal cases on dismissals without prejudice and clean slate cases. Stipulation and conviction cases will be worked on next. Judge Pullan expressed concern with the process by which cases are being identified for automatic expungement in all case types and the need for adequate data in evaluating the error rates and auditing the effectiveness of automated processes.

Following further discussion, Judge Chiara moved to send CJA 4-208 and 4-403 to the Judicial Council for approval for a 45-day public comment period and to recommend the adoption of the automated and standing orders as drafted. Judge Heward seconded the motion. The motion passed with a 3 to 4 vote. Judge Pullan opposed, citing his long-standing philosophical opposition to affixing judicial signatures to automated orders.

(5) Technology report/proposals.

The Policy and Planning Committee is now the Policy, Planning, and Technology Committee (PP&T). The committee is tasked with identifying technological issues and reviewing and prioritizing requests for new or additional technology or support services. Brody Arishita, Director of Information Technology, discussed how requests will be processed before they get to PP&T for consideration.

Ad Hoc Technology Committee:

Before technology proposals or requests are presented to the PP&T committee, they are to be reviewed by a small ad hoc committee to prioritize the level of the request. The requests are routed through the appropriate court

team and Mr. Arishita will coordinate an ad hoc committee meeting to complete the review. By the time the request reaches the PP&T committee for discussion, the ad hoc committee will have completed a detailed analysis of the request. The packet will detail the request, the timeframe needed in which to complete the project, and information regarding funding for the project. Once approved, the ad hoc committee will meet again to review the proposals and make any adjustments as needed.

Policy, Planning, and Technology Request Form:

The new Policy, Planning, and Technology Request Form is designed to streamline the review process, separating requests for rule/policy amendments from technology requests.

The committee did not have concerns regarding Mr. Arishita's proposals or the new request form. The committee recommended a rule amendment reflecting the expanded role of the Policy and Planning Committee and the creation of the Ad Hoc Technology Committee. Mr. Arishita will prepare a rule draft. The committee thanked Mr. Arishita and Ms. Williams for their work in creating a streamlined process and procedure for technology requests.

Old Business/New Business:

This meeting is the final meeting for Judge Heward prior to her retirement as a juvenile court judge.

Adjourn: With no further items for discussion, the meeting adjourned. The next meeting will be held on August 5, 2022 at 12 PM via Webex video conferencing.

Tab 3

Agenda

Budget and Grants Agenda for the August 19, 2022 Judicial Council Meeting

1. Carryforward Spending Requests Karl Sweeney
(Tab 1 - Action)

Carryforward Spending Requests Presented for Approval by Judicial Council

26. IT – Audio for Spanish Fork Courtroom Brody Arishita
2. Grants Internal Control Self-Assessment for 2016 – 2020 Melissa Taitano
(Tab 2 - Action) and Jordan Murray
3. FY 2022 ARPA Spend Update Karl Sweeney
(Tab 3 - Information)

Tab 1



FY 2023 Carryforward and Ongoing Requests - 2022 Year End

7/29/2022

Funding Sources

	One Time	Ongoing
Total Case Processing Amounts from 2022 General Session Fiscal Notes	\$ 247,900	\$ 818,200
Expected Carryforward Amount from Fiscal Year 2022 (as of 7/29/2022)	\$ 3,200,000	\$ -
Ongoing Turnover Savings (forecasted as of 7/29/2022 - funding for Hot Spot, Targeted, and Performance Raises already included)	\$ -	\$ 409,541
Total Available Funding	\$ 3,447,900	\$ 1,227,741

Ongoing Requests

		Presented		Judicial Council Approved	
		One Time	Ongoing	One Time	Ongoing
4	Clerk of Court Supplemental to JA Increase	N/A	\$ 59,000	N/A	\$ 59,000
5	Public Outreach Coordinator	N/A	\$ 120,000	N/A	\$ 120,000
6	Partial Restoration of FY 2021 Budget Cuts	N/A	\$ 112,500	N/A	\$ 112,500
7	New District Court Law Clerk Attorney	N/A	\$ 95,850	N/A	\$ 95,850
8	New Associate General Counsel - Legal Department	N/A	\$ 150,000	N/A	\$ 150,000
9	HB 143 DUIs - New Judicial Assistants	N/A	\$ 320,000	N/A	\$ 320,000
10	New HR Compensation & Classification Manager	N/A	\$ 120,000	N/A	\$ 120,000
11	Pre-fund Portion of Annual Performance Raises	N/A	\$ 150,000	N/A	\$ 150,000
12	Pre-fund Portion of Hot Spot Raises	N/A	\$ 82,000	N/A	\$ 82,000
Subtotal		\$ -	\$ 1,209,350	\$ -	\$ 1,209,350
Net Ongoing Total - carry into FY 2023			\$ 18,391		\$ 18,391

One Time Requests

		Presented		Judicial Council Approved	
		One Time	Ongoing	One Time	Ongoing
1	AALL Conference Attendance Funds - Law Library	\$ 845	N/A	\$ 845	N/A
2*	ODR Program Development	\$ 46,200	N/A	\$ 46,200	N/A
3	Bountiful District Courtroom #2 Audio Upgrade	\$ 40,000	N/A	\$ 40,000	N/A
4	Law Clerk Commitment Fulfillment	\$ 11,000	N/A	\$ 11,000	N/A
5	IT - Delayed Delivery of Statewide Routers and WiFi Access Points	\$ 160,000	N/A	\$ 160,000	N/A
6	TSOB Probation Office A/V System - Phase 2	\$ 61,509	N/A	\$ 61,509	N/A
7*	HR - Onboarding and Recruitment Software	\$ 19,030	N/A	\$ 19,030	N/A
8*	Education - In Person Conferences and Education Team Training	\$ 168,500	N/A	\$ 168,500	N/A
9*	Employee Incentive Awards	\$ 280,000	N/A	\$ 280,000	N/A
10*	ICJ Operations Funding	\$ 21,000	N/A	\$ 21,000	N/A
11*	Education Assistance Program Funding	\$ 85,000	N/A	\$ 85,000	N/A
12*	Secondary Language Stipend	\$ 83,200	N/A	\$ 83,200	N/A
13*	Public Transportation Reimbursement Program	\$ 50,000	N/A	\$ 50,000	N/A
14	Cisco Portal Upgrade - IT	\$ 150,000	N/A	\$ 150,000	N/A
15*	Retain Contract Developers - IT	\$ 682,000	N/A	\$ 682,000	N/A
16*	IT Replacement Inventory	\$ 250,000	N/A	\$ 250,000	N/A
17	Seventh District Courthouse Improvements	\$ 8,840	N/A	\$ 8,840	N/A
18	Partial Restoration of FY 2021 Budget Cuts	\$ 112,500	N/A	\$ 112,500	N/A
19	IT Bandwidth and Webex Renewal	\$ 118,000	N/A	\$ 118,000	N/A
20*	Time-limited Law Clerks	\$ 191,200	N/A	\$ 191,200	N/A
21	IT Staff Augmentation	\$ 270,000	N/A	\$ 270,000	N/A
22	Pilot Program - Counseling for Court Employees and Jurors	\$ 35,000	N/A	\$ 35,000	N/A
23	Justice Court Reform Analysis Partner	\$ 50,000	N/A	\$ 50,000	N/A
24	Education - Diversity, Equity and Inclusion Training	\$ 25,000	N/A	\$ 25,000	N/A
25*	Divorce Education for Children	\$ 12,000	N/A	\$ 12,000	N/A
26	Audio for Spanish Fork Courtrooms	\$ 17,000	N/A		N/A
Subtotal		\$ 2,947,824	\$ -	\$ 2,930,824	\$ -
Balance Remaining After Judicial Council Approvals				\$ 517,076	
+	Balance Remaining Inclusive of "Presented"	\$ 500,076			

LEGEND

Highlighted items are currently being presented to the Budget and Fiscal Management Committee.

Highlighted items have been approved by the BFMC and are on track for being presented to the Judicial Council.

Highlighted items have been previously approved by the Judicial Council.

* - items have been presented and approved in prior years.

+ - One-time balance remaining will go into Judicial Council reserve. Ongoing balance remaining will be included in the beginning balance for ongoing turnover savings.

BFMC approval to submit request to Judicial Council does not imply Judicial Council must approve the recommendation.

If more funds are available than the total of requests received, prioritization is optional.

26. FY 2023 Carryforward Spending Request – IT – Upgrade Spanish Fork Courtroom Audio

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2022 are normally to be spent between July 1, 2021 and June 30, 2022; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2022 funds into FY 2023. This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2023 carryforward funds for one-time projects that will be delivered in FY 2023.**

Date: 7/22/2022

Department or District: Information Technology

Requested by: Todd Eaton

Request title: Upgrade Spanish Fork Courtroom Audio

Amount requested: \$ 17,000

One-time funds

Purpose of funding request:

Upgrade the audio system in the Spanish Fork District Court Courtroom. It was last updated in 2009 and lacks the current audio technology to best support hybrid/remote hearings.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

We are seeking to upgrade the audio in both Spanish Fork courtrooms which were last updated in 2009. This facility is at the top of the list for the next upgrade. The total cost of the upgrade is \$40,000 per courtroom x 2 courtrooms = \$80,000.

The funding will come from several places.

1. IT still has \$24,000 remaining in the FY22/23 AMA (Agency Managed Account) through DFCM for courtroom upgrades. DFCM allowed us to extend the terms on the current AMA through FY23 due to current supply chain and hardware availability issues.
2. Mark Urry (TCE 4th District) has set aside \$11,000 of his 2023 budget to contribute.
3. Shelly Waite (TCE 4th Juvenile) has set aside \$28,000 to contribute.

This brings internal funding to \$63,000. We are requesting the balance of \$17,000 so these updates can be completed in FY 2023.

Details: A new system will bring the courtroom in line with current Court A/V standards, this includes, but is not limited to, the following:

- Audio Digital Signal Processor
- improved recording, local sound, and control
- Teleconference Phone System - tied directly into the sound and recording system
- Touch Panel Control System
- Simple, flexible user interface
- Whole room, Secure Hearing Impaired System
- In-room sound reinforcement

26. FY 2023 Carryforward Spending Request – IT – Upgrade Spanish Fork Courtroom Audio

- Direct Web Conferencing Audio
- USB Recording enabled to Digital Recording PC
- Wireless Microphones
- Side-bar Privacy mode

We will take advantage of having the vendor not only do the requested audio upgrades, but also install the Cynap and 4-camera systems already purchased with ARPA funding. This reduces the install cost of the camera systems because the vendor will be on site and negates the need to schedule future time to move court out of these courtrooms for the installs at a later date.

Alternative funding sources, if any:

There is no alternative funding source

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Since there is no new DFCM funding for AV upgrades until FY24, these courtrooms will be put off at least that long. Both courtrooms have a higher volume of issues due to the age of the current audio equipment and have difficulty with hybrid hearings. There was no DFCM funding allocated for FY23, the remaining \$24,000 is for a pre-existing AMA through DFCM.

Tab 2

UTAH STATE COURTS

FIVE YEAR INTERNAL CONTROL SELF-ASSESSMENT (ICSA) FOR GRANTS



**ADMINISTRATIVE OFFICE OF THE COURTS
FINANCE DEPARTMENT**

JULY 26, 2022

**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.**



Administrative Office of the Courts

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

July 26, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

Utah Judicial Council
Administrative Office of the Courts
Matheson Courthouse 450 South State St.
Salt Lake City, UT. 84114-0431

Dear Judicial Council:

The Five-Year Internal Control Self-Assessment (ICSA) for Court Grants is attached. This report represents the first compliance review conducted for grants awarded to the courts and covers the years 2016 - 2020. Future ISCA reviews will be completed annually per CJA Rule 3-411(9)(A)(i). The ICSA was guided by principles and statutes set forth in:

1. *Standards for Internal Control in the Federal Government* ('Green Book');
2. *Court's Accounting Manual* §11-07.00;
3. *Utah Code of Judicial Administration* (CJA) Rule 3-411;
4. *Utah Code Annotated* (UCA) 63J-5-203/204 and 63J-7-202/203.
5. *Generally Accepted Accounting Principles*

This self-assessment was conducted by the AOC Finance Department staff noted below. Please refer to the Executive Summary (p.2) for the scope and results of this ICSA.

Respectfully,

Karl R. Sweeney, Finance Director
Melissa Taitano, Finance Officer IV
Jordan Murray, Grant Coordinator

Table of Contents

EXECUTIVE SUMMARY

Executive Summary	1
-------------------------	---

INTERNAL CONTROLS

1. Separation of Duties	2
-------------------------------	---

COMPLIANCE WITH REQUIRED DOCUMENTATION

2.0. Grant Files	3
2.1. Grant Application Proposal (GAP).....	4
2.2. Grant Award Letters	7
2.3. Grant Reconciliations	8
2.4. Federal Grant Reporting Requirements	9

JUDICIAL COUNCIL AND LEGISLATIVE APPROVALS

3. Judicial Council and Legislative Approvals	10
---	----

FINET RECORDS

4. FINET Records	12
------------------------	----

EXHIBITS

A. Active Grants – 2016-2020	13
------------------------------------	----

Executive Summary

- Background:** In February 2021, the AOC Finance Director committed to the Judicial Council to perform a 5-year internal control self- assessment (ICSA) of the Court's grants that were active between 2016-2020 (see [Exhibit A](#)). The ICSA is intended to provide a baseline level of assurance on compliance with Court rules, accounting manual policies and state statutes that governed grants during the 5-year period noted above.
- Scope & Objectives:** The ICSA assessed general financial internal controls including: separation of duties, safeguarding of assets, grant approval processes, record retention, and timely reconciliations of grant revenues and expenditures. The objective was to measure compliance with the old grants CJA Rule 3-411 (pre-revision) which was in effect during 2016-2020 and Accounting Manual Section 11-07.00 Grants also in effect during 2016- 2020 (pre-revision).
- Recommendations:** This self-assessment contains 4 recommendations to strengthen grant controls and procedures as follows:
1. Separation of Duties – an employee, independent of cash receipting and disbursement duties, performs account reconciliation duties, and if not, an employee independent of the transaction must perform review procedures to compensate for separation of duties weaknesses.
 2. Grant Files - Grant files should be stored in a centralized Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely and does not depend on a grant manager staying in position. Grant files should include (a) Grant Application Proposal (GAP), (b) grant award letters, (c) monthly reconciliations of grant financial activity and (d) compliance documents required by grantors.
 3. Approval Process – All grants should be tracked and proof of required approvals by Judicial Council and Executive Appropriations Committee logged and files saved in the Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely.
 4. FINET Recordkeeping – Each time a new grant is started, the AOC Grant Coordinator will ensure that the AOC Finance staff has changed the Chart of Accounts Unit Name to appropriately associate the Chart of Accounts Unit Name with the associated new grant and notify the grant manager of the account number and name.

1. Separation of Duties

Criteria:	CJA Rule 3-411. Grant Management. Utah State Courts Accounting Manual, Section 11-07 Grants Generally Accepted Accounting Principle
Issue:	An employee, independent of cash receipting and disbursement duties performs account reconciliation duties, and if not, an employee independent of the transaction must perform review procedures to compensate for separation of duties weaknesses.
Grants:	Unit #2967 (GAL) - Victims of Crime Act (VOCA) State Assistance Fund Unit #2968 (GAL) - Court Appointed Special Advocates (CASA) Mentoring Unit #2969 (GAL) - CASA State Branding - National CASA Awareness Grant
Observation:	There was separation of duties between authorizing disbursements and making purchases. However, the GAL Administrative Assistant (AA) processes disbursement requests and also does the reconciliation without a second review from someone independent of the transaction(s) which is inadequate separation of duties.
Recommendation:	The GAL AA is not independent of disbursing and therefore should not be doing the monthly reconciliation without a second review by someone independent of the transaction(s). We recommend that an employee (either in GAL or AOC Finance) who is independent of the grant transaction(s) perform a review of the reconciliation monthly. Any errors found should be corrected within the same accounting period.
Response:	AOC Finance will provide a resource independent of the grant transactions to review the reconciliation on a monthly basis. This will comply with the internal control standard.

COMPLIANCE WITH REQUIRED DOCUMENTATION**2.0. Grant Files**

Criteria:	CJA Rule 3-411. Grant Management. Utah State Courts Accounting Manual, Section 11-07 Grants Generally Accepted Accounting Principles
Issue:	Grant documentation prior to November 2020 was largely decentralized and no consistent practice was followed for record retention across the Court's grant portfolio. The ICSA focused on grants with activity between calendar year 2016 through calendar year 2020.
Observation:	<p>For grants that were active in calendar year 2020, in most cases we were able to interview the grant managers or their successors. They or their administrative assistants have access to the digital or physical grant files.</p> <p>For grants that were active from 2016 to 2019, we found that many of the grant managers had left their positions, and the digital file folders the grant managers used were not archived. Most grant records/files were not available unless we were able to trace grant documents back to the Judicial Council, EOCJ, or EAC meeting materials.</p>
Recommendation:	According to AOC record retention policies (Accounting Manual 01-01.00) we should have copies of grant documents that survive the grant life and are available for audit or reference for 5 years. Grant files should be stored in a centralized Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely and does not depend on a grant manager staying in position. Grant managers should transfer copies of their existing files to the Grant Coordinator who will store grant files on the centralized Network drive that can house all grant folders. The benefit of doing this is that when the grant manager and/or staff leaves the Courts, the files will be available for future reference.
Response:	See recommendation above. Grant managers can easily drag and drop a copy of their Grant folders to a Google Drive folder they've shared with the Grant Coordinator. Then the Grant Coordinator can easily drag and drop those files into the AOC Finance Grants centralized Network drive.

COMPLIANCE WITH REQUIRED DOCUMENTATION

2.1. Grant Application Proposal (GAP)

Criteria: CJA Rule 3-411. Grant Management.
Utah State Courts Accounting Manual, Section 11-07 Grants
Generally Accepted Accounting Principles

Observation: To test timely GAP filing and retention, we requested a GAP (or another document that substituted for the GAP) from each grant manager for all grants that were approved during 2020 (calendar year). Of the 17 grants tested for 2020, 3 grants did not have a GAP, however these grants all had mitigating circumstances described in the table below.

Compliance with Required Documentation Observation – 2020 Grant Application Proposal (GAP) Exceptions		
Unit	Grant Title	GAP Filed & Retained
2907	Utah Bar Foundation Award of SLC - CARES Act Funds; GAP not prepared. Mitigated by memo from AOC Finance Director explaining nature and uses of grant that was circulated to JC. JC voted by email and approved on 9/10/2020. The AOC Finance Director's memo showed grant funds were majority-used to provide SL County Court employees with laptops to work from home.	No GAP
2939	JAG Justice Assistance Grant HB206 GAP was not prepared for Judicial Council review prior to award, but the Grant was approved by the JC. Similar to the Utah Bar Foundation, this grant was designed to provide a template for the HB 206 process for assessing pre-trial release risks and there was no incremental impact on AOC departments from accepting these grant funds.	No GAP

COMPLIANCE WITH REQUIRED DOCUMENTATION

2943	ODR - Pew Charitable Trusts GAP was not prepared for Pew Charitable Trust Grant Agreement; however, GAP was prepared for SJI Grant for ODR (#2935) and these two grants were both funding the same ODR project. The GAP prepared for the SJI ODR grant was adequate to provide a GAP for the Pew ODR matching funds. A separate GAP is not needed as they are funding partners for the same project.	No GAP
------	--	--------

Consider 2020 GAP compliance @ 100%.

For grants that were approved from 2016 to 2019, we found that many of the grant managers had left their positions, and the digital file folders containing GAPs were not archived. Some grant GAP records were completely unavailable unless we were able to trace grant documents back to the Judicial Council, EOCJ, or EAC meeting materials. Fortunately, GAPs are often presented in the Judicial Council meetings and are part of the meeting materials.

The results of our 2016 - 2019 test for GAP's are summarized below (and also included in the table for Observation 3 below).

Year	New or Renewal GAPs Found/ Approved by JC	New Fed Grants Found/ Approved by EOCJ or EAC/ Required to be approved by EOCJ/EAC	New Non Fed Grants Found/ Approved by EOCJ or EAC/ Required to be approved by EOCJ/EAC
2016	6/6	7/4/0	1/0/0
2017	4/4	7/4/0	1/0/0
2018	4/4	5/4/0	3/1/0
2019	3/3	5/5/0	1/0/0
2020	9/9	8/7/0	7/6/6

Recommendation: According to AOC record retention policies (Accounting Manual 01-01.00) we should have copies of grant documents (including GAPs) that survive the grant life and are available for audit or reference for 5 years. Grant files should be stored in a centralized Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely and does not depend on a grant manager staying in position. Grant managers should transfer copies of their existing files (including GAPs) to the

COMPLIANCE WITH REQUIRED DOCUMENTATION

Grant Coordinator who will store grant files on the centralized Network drive that can house all grant folders. The benefit of doing this is that when the grant manager and/or staff leaves the Courts, the files will be available for future reference.

Response:

See recommendation above. Grant managers can easily drag and drop a copy of their Grant GAPs to a Google Drive folder they've shared with the Grant Coordinator. Then the Grant Coordinator can easily drag and drop those files into the AOC Finance Grants centralized Network drive.

COMPLIANCE WITH REQUIRED DOCUMENTATION

2.2. Grant Award Letters

Criteria: CJA Rule 3-411. Grant Management.
Utah State Courts Accounting Manual, Section 11-07 Grants
Generally Accepted Accounting Principles

Observation: To test that Award Letters were received and retained, we reviewed existing documents or requested an Award Letter from each grant manager for all grants with activity during 2020 (calendar year). The final results show that there was an award letter for every grant with one exception as follows:

Compliance with Required Documentation Observation - Award Letters		
Unit	Grant Titles - 2020	Award Letter Received & Retained
2929	WINGS - Court Visitor Program - Elder Justice - Focus on Court Oversight	None

We looked back to **2016-2019** at the agendas, meeting materials, and audio/video recordings of the EAC, EOCJ and Judicial Council meetings looking for evidence of grants being presented for approval by governing bodies and we did not see evidence of **award letters** included in the grant documents presented which is not surprising as the award letters would have been received after the approval by governing bodies.

As was noted in Observation 2.0 above, the lack of a centralized Network drive made finding the missing award letters difficult.

Recommendation: A complete and accurate award letter and supporting documentation should be collected from grant managers and should be subject to same storage rules as noted in Recommendation 2.0 above.

Response: Same as Response 2.0 above

COMPLIANCE WITH REQUIRED DOCUMENTATION**2.3. Grant Reconciliations**

Criteria:	CJA Rule 3-411. Grant Management. Utah State Courts Accounting Manual, Section 11-07 Grants Generally Accepted Accounting Principles
Observation:	To test Reconciliation preparation and retention, we sent a questionnaire to grant managers and assistants for all grants with activity during 2020 calendar year. We asked grant managers to affirm (1) that someone was preparing a reconciliation at least quarterly of the revenues and expenditures for their active grant, (2) that they were in compliance with the Funder's requirements, and (3) that they are retaining records for audit purposes.
Recommendation:	Grant reconciliations should be prepared monthly by someone independent of cash receipting and disbursing duties, or if not, an employee independent of the transaction(s) should review the reconciliation to compensate for separation of duties weaknesses. Grant reconciliations and Funder reporting should be stored in a centralized Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely and does not depend on a grant manager staying in position. Grant Funder reporting should be reviewed by the Director of Finance and Grant Coordinator. The benefits of doing these steps are that grant managers will know right away if anything was posted incorrectly. Mistakes will be easier to find. Corrections will be easier to make. The risk of an error or defalcation going undetected will be reduced.
Response:	See recommendation above. Grant managers can easily drag and drop a copy of their Grant reconciliations and Funders reporting to a Google Drive folder they've shared with the Grant Coordinator. Then the Grant Coordinator can easily drag and drop those files into the AOC Finance Grants centralized Network drive.

COMPLIANCE WITH REQUIRED DOCUMENTATION

2.4. Federal Grant Reporting Requirements

Criteria:	CJA Rule 3-411. Grant Management. Utah State Courts Accounting Manual, Section 11-07 Grants Generally Accepted Accounting Principles
Observation:	<p>Federal grants have reporting and compliance requirements and documentation that will be reviewed and maintained by the Grant Coordinator and Director of Finance. To make sure that grant funds are used properly, organizations that receive Federal funds must file regular financial status reports with the granting federal agency. Reporting requirements are the responsibility of each grant manager.</p> <p>For federal grants active in 2020 we asked each grant manager if they properly and timely met the grant reporting requirements. There were no exceptions found.</p> <p>For federal grants prior to 2020, we looked back to 2016-2019 at the agendas, meeting materials, and audio/video recordings of the EAC, EOCJ and Judicial Council meetings looking for evidence of federal grant managers meeting the grant reporting requirements for all active federal grants.</p>
Recommendation:	According to AOC record retention policies (Accounting Manual 01-01.00) we should have copies of grant documents (including federal grant reporting requirements) that survive the grant life and are available for audit or reference for 5 years. Grant files should be stored in a centralized Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely and does not depend on a grant manager staying in position. Grant managers should transfer copies of their existing files (including federal grant reporting requirements) to the Grant Coordinator who will store grant files on the centralized Network drive that can house all grant folders. The benefit of doing this is that when the grant manager and/or staff leaves the Courts, the files will be available for future reference.
Response:	See recommendation above. Grant managers can easily drag and drop a copy of their Grant federal grant reporting requirements to a Google Drive folder they've shared with the Grant Coordinator. Then the Grant Coordinator can easily drag and drop those files into the AOC Finance Grants centralized Network drive.

JUDICIAL COUNCIL AND LEGISLATIVE APPROVALS

3. Judicial Council and Legislative Approvals

- Criteria:** Utah Code Annotated (UCA) 63J-5-203/204 and 63J-7-202
CJA Rule 3-411. Grant Management.
Utah State Courts Accounting Manual, Section 11-07.00 Grants
- Issue:** We have documented issues in grant record keeping during 2016 - 2019 in the prior observations in this ICSA. Based on those findings, for this step we took all grants for which we have a GAP during 2016 – 2020 and determined if the proper body (Judicial Council, Executive Offices and/or Criminal Justice Subcommittee (EOCJ) and/or the Executive Appropriations Committee (EAC) approved the grant.
- Observation:** We looked back to 2016-2020 at the agendas, meeting materials, and audio/video recordings of the EAC, EOCJ and Judicial Council meetings looking for evidence of grants being approved by governing bodies with the following results bearing in mind that the Judicial Council must approve all grants, EOCJ/EAC has a minimum threshold of \$1M for federal and \$50K for non-federal (although EOCJ/EAC can choose to dip below the minimums):

Year	New or Renewal GAPs Found/ Approved by JC	New Fed Grants Found/ Approved by EOCJ or EAC/ Required to be approved by EOCJ/EAC	New Non Fed Grants Found/ Approved by EOCJ or EAC/ Required to be approved by EOCJ/EAC
2016 ¹	6/6	7/4/0	1/0/0
2017 ²	4/4	7/4/0	1/0/0
2018 ³	4/4	5/4/0	3/1/0
2019 ⁴	3/3	5/5/0	1/0/0
2020 ⁵	9/9	8/7/0	7/6/6

¹ None of the federal or non-federal grants in 2016 were above the threshold requiring EOCJ/EAC approval. However, EAC/EOCJ approved 4 of them. CIP Grants were always approved by EOCJ/EAC but not always approved by JC.

² None of the federal or non-federal grants in 2017 were above the threshold requiring EOCJ/EAC approval. However, EAC/EOCJ approved 4 of them. CIP Grants were always approved by EOCJ/EAC but not always approved by JC.

³ None of the federal or non-federal grants in 2018 were above the threshold requiring EOCJ/EAC approval. However, EAC/EOCJ approved 5 of them. CIP Grants were always approved by EOCJ/EAC but not always approved by JC.

⁴ None of the federal or non-federal grants in 2019 were above the threshold requiring EOCJ/EAC approval. However, EAC/EOCJ approved 5 of them. CIP Grants were always approved by EOCJ/EAC but not always approved by JC.

⁵ None of the federal grants in 2020 were above the threshold requiring EOCJ/EAC approval. However EAC/EOCJ approved 7 of them. Six of the 7 non-federal grants were above the threshold requiring EOCJ/EAC approval. CIP Grants were always approved by EOCJ/EAC but not always approved by JC. The PEW-ODR, Utah Bar Foundation, and CCJJ grants did not have a GAP but had other mitigating documentation that we have accepted in lieu of a GAP; consider these 3 qualifying to be counted as having GAPs. See also Section 2.1.

JUDICIAL COUNCIL AND LEGISLATIVE APPROVALS

Recommendation : According to AOC record retention policies (Accounting Manual 01-01.00) we should have copies of grant documents (including approval documentation) that survive the grant life and are available for audit or reference for 5 years. Grant files including approval documentation should be stored in a centralized Network drive maintained by the AOC Grant Coordinator that is retrievable indefinitely and does not depend on a grant manager staying in position.

Response: AOC Finance will ensure that all routine grant renewals (including CIP which has a multi-year life but discreet amounts approved each year) are added to the Judicial Council agenda for approval before being sent to EOCJ/EAC.

4. FINET Records

Criteria:	CJA Rule 3-411. Grant Management. Utah State Courts Accounting Manual, Section 11-07 Grants Generally Accepted Accounting Principles
Issue:	FINET Chart of Account descriptions for Grant Unit Numbers have not been updated when a new grant is assigned the unit number of a grant that has closed in a prior year.
Observation:	<p>When someone needs to match up a grant transaction to an accounting transaction in the data warehouse or accounting journals, and when information in the Judicial Council meeting materials addresses a grant title, it was difficult to know which FINET unit number is assigned to the grant because either there was no Chart of Accounts title that matched the grant title or the title was obscure although somewhat related to the grant. 15 unit names were tested.</p> <p>7 unit names were not updated and need to be changed completely.</p> <p>4 unit names need to be changed slightly, expanded to improve the name.</p> <p>4 unit names were updated with one of them needing improvement.</p>
Recommendation:	Each time a new grant is started, the AOC Grant Coordinator will ensure that the AOC Finance staff has changed the Chart of Accounts Unit Name to appropriately associate the Chart of Accounts Unit Name with the associated new grant and notify the grant manager of the unit number and name.
Response:	AOC Finance will update the respective Chart of Accounts unit names in FINET to match the grant title. This will mitigate the confusion. This response has been accomplished.

A. Active Grants – 2016-2020

Current Grants (2020) are shown in black normal font.

Legacy Grants are shown in *Italics*

(Legacy Grants – not active in 2020)

Grants reviewed for calendar year 2020 include the following:

Unit #1310	UServeUtah Community Engagement Grant (Village Project Mentor Program Grant)
Unit #2260	Utah Bar Foundation - Court Staff Training Program - Self Help Center
Unit #2907	Utah Bar Foundation Award of SLC - CARES Act Funds
<i>Unit #2907</i>	<i>PO/DPO Safety Training & Mgmt Training (2016-2017)</i>
<i>Unit #2911</i>	<i>ASPIRE - Training on Life Planning Options and Guardianship (2017-2019)</i>
Unit #2918	Court Improvement Program (CIP) – Data
Unit #2919	Court Improvement Program (CIP) - Training
<i>Unit #2929</i>	<i>WINGS and Court Visitor Program (Elder Justice Innovation Grant, WINGS Focus on Court Oversight) (2018-2019)</i>
<i>Unit #2930</i>	<i>Smarter Sentencing-Model Regional Conferences (2018-2019)</i>
Unit #2932	Preliminary Needs Analysis of Appellate e-Filing
Unit #2933	Utah Innovation Office & Regulatory Sandbox - from S.J.I. (Piloting Utah's Legal Services Oversight Office and Regulatory Sandbox)
Unit #2935	Online Dispute Resolution (ODR) Assessment
Unit #2936	Violence Against Women Act (VAWA) - Domestic Violence Prevention
Unit #2938	Utah Innovation Office Regulatory Sandbox - from Hewlett Foundation Regulatory Reform (Sandbox)
Unit #2939	HB206 Bail Reform & PreTrial Release (Justice Assistance Grant (JAG) HB206)
Unit #2940	Regulatory Sandbox Tools - from S.J.I. (Sandbox Tools: Scaling & Sustaining Innovation)

Unit #2943	Online Dispute Resolution (ODR) Assessment (Pew Charitable Trust Grant Agreement)
Unit #2957	Court Improvement Program (CIP) – Basic
Unit #2962	State Access & Visitation Program
Unit #2967	Victims of Crime Act (VOCA) - State Assistance Fund (VOCA Victim Assistance)
Unit #2968	Court Appointed Special Advocates (CASA) Mentoring
Unit #2969	CASA State Branding - National Casa Awareness Grant

Tab 3



YTD ARPA Expenses as of 08/01/2022

#		Funded by	GOPB	Requested	Approved	Actual	Balance	Activity	Description
		Legislature	Approved	Amount	Amount	Amount YTD	Available	Code	
1	IT Access to Justice - Response to COVID - Part I	May-21	Yes	11,000,000	11,000,000	3,042,468	7,957,532	ITCV	Projects will extend thru 12/31/24
2	Courts Case Backlog - Part I*	May-21	Yes	1,000,000	1,000,000	707,963	292,037	BKLG	See detail below.
	Subtotal			12,000,000	12,000,000	3,750,431	8,249,569		
Requests to Legislature for FY 2023 - \$3,000,000 approved by the Legislature				Requested	Approved	Actual	Available		
1	IT Access to Justice - Response to COVID - Part II	N/A	Submitted 10/21	1,373,400	1,373,400	-	1,373,400	ITC2	Projects will extend thru 12/31/24
2	Courts Case Backlog - Part II	N/A	Submitted 10/21	1,000,000	1,000,000	-	1,000,000	BKL2	Projects case backlog will take thru 6/30/2023
3	COVID-19 Supplies	N/A	Submitted 10/21	640,000	302,100	-	302,100	CV19	
4	Legal Sandbox Response to COVID	N/A	Submitted 10/21	649,000	324,500	-	324,500		
5	Self-Help Center	N/A	Submitted 10/21	64,000	-	-	-		
6	Interpreter Equipment	N/A	Submitted 10/21	97,000	-	-	-		
7	Eviction Court	N/A	Submitted 10/21	166,000	-	-	-		
8	Public Outreach & Engagement	N/A	Submitted 10/21	30,000	-	-	-		
9	IT Access to Justice - Response to COVID - Part III	N/A	Submitted 10/21	1,881,500	-	-	-		
	Subtotal			5,900,900	3,000,000	-	3,000,000		
				\$ 17,900,900	\$ 15,000,000	\$ 3,750,431	\$ 11,249,569		

ARPA spending cut off date is 12/31/2024 ; ARPA cut off date for lost revenue is 12/31/2023.

* Data pulled using list of employees provided by TCEs

YTD Expenses Include

Personnel Expenses (as of PPE 7/8/22):	\$	680,101
Mileage Expenses (as of PPE 7/8/22):	\$	2,475
Sr. Judge Travel Expenses (as of 7/8/2022):	\$	2,203
	\$	684,778
COVID Testing Kit purchase:	\$	23,185
	\$	707,963

Tab 4

Agenda



Administrative Office of the Courts

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

August 11, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Judicial Council
FROM: Keisa Williams
RE: Automatic Expungement Orders - Evictions

New code section [78B-6-852](#), Automatic Expungement of Evictions, went into effect on July 1, 2022 and the code section governing automatic expungements in criminal cases changed during the 2022 session from 77-40-114 to [77-40a-2](#). In accordance with CJA 4-208(3)(D), the Judicial Council must approve the form and content of automated orders of expungement.

Attached:

- New – Order on Automatic Expungement of Eviction
- Updated – Criminal automatic expungement orders (updates statutory references only)
- Updated – Standing Order authorizing presiding judge signatures on automated expungement orders (adds eviction orders)

Both the Management Committee and the Policy, Planning, and Technology Committee approved the automated process and the form and content of the proposed orders.

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

DISTRICT COURT
[county_name], STATE OF UTAH

[Petitioner],

Petitioner,

vs.

[respondent_name]

Respondent.

**Order on Automatic
Expungement of Eviction**

Case Number: [case_number]

The matter before the court is the automatic expungement of the case pursuant to Utah Code § 78B-6-852.

This case has been identified by the Judiciary's automated expungement review process as one meeting the requirements for automated expungement. Expunging the records associated with case number [case_number] is statutorily mandated.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules 3-108 and 4-403.

The Court Orders that the records of respondent's eviction related to court case number [case_number] are hereby expunged.

Judge's signature will appear at the top of the first page of this document.

In the District / Justice Court of Utah
[district_number] Judicial District, [county_name] County / [city_name] City

[prosecuting_entity – usually “State of Utah”],

Plaintiff,

vs.

[defendant_name]

[defendant_dob]

Defendant.

**Order on Automatic
Expungement of
Acquittal / Dismissal with Prejudice**

Case Number: [case_number]

The matter before the court is the automatic expungement of the case pursuant to Utah Code § 77-40~~a~~-~~201~~~~44~~.

This case has been identified by the Judiciary’s automated expungement review process as one meeting the requirements for automated expungement. Expunging the records associated with case number [case_number] is statutorily mandated.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules 3-108, and 4-403.

The Court Orders that the records of defendant’s arrest, investigation, detention, and prosecution related to court case number [case_number] are hereby expunged.

Judge’s signature will appear at the top of the first page of this document.

In the District / Justice Court of Utah
[district_number] Judicial District, [county_name] County / [city_name] City

[prosecuting_entity – usually “State of Utah”],

Plaintiff,

vs.

[defendant_name]

[defendant_dob]

Defendant.

**Order on Automatic
Expungement of Conviction**

Case Number: [case_number]

The matter before the court is the automatic expungement of the case pursuant to Utah Code § 77-40~~a~~-~~201~~~~44~~.

This case has been identified by the Judiciary’s automated expungement review process as one meeting the requirements for automated expungement. Notice was sent to the prosecuting agency as provided by law and no objection was received within the time allowed. Expunging the records associated with case number [case_number] is statutorily mandated.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules 3-108, and 4-403.

The Court Orders that the records of defendant’s arrest, investigation, detention, prosecution, and conviction related to court case number [case_number] are hereby expunged.

Judge’s signature will appear at the top of the first page of this document.

**In the [district_number] Judicial District
State of Utah**

In Re: Automatic Expungements

STANDING ORDER

TO THE [DISTRICT] [JUSTICE] COURTS IN THE [district_number] JUDICIAL DISTRICT:

IT IS HEREBY ORDERED that the Administrative Office of the Courts may prepare orders of expungement and automatically affix the presiding judge's signature to such orders, pursuant to the automatic expungement provisions in Utah Code Sections 77-40a-2 and the Utah Expungement Act 78B-6-8a and Code of Judicial Administration Rules 3-108, 4-403.

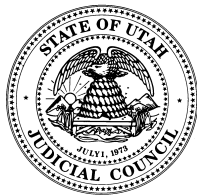
IT IS FURTHER ORDERED that the Administrative Office of the Courts may automatically issue signed orders of expungement only when the requirements of Utah Code Sections 77-40a-2 and 78B-6-8a the Utah Expungement Act, Utah Rules of ~~Criminal~~ Procedure, and Code of Judicial Administration have been met.

Dated this ____ day of _____, 20__

[Name], Presiding Judge
[district_number] Judicial District

Tab 5

Agenda



Administrative Office of the Courts

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

August 11, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Judicial Council
FROM: Keisa Williams
RE: Deferred Traffic Prosecution Cases

[HB 139 \(77-2-4.2\)](#), deferred traffic prosecution, goes into effect on October 1, 2022. The proposed rule amendments and orders authorize the AOC to implement automated processes and automatically affix signatures without judicial review, similar to the clean slate and eviction expungement processes.

Attached is a detailed outline of how the system would work. The code contemplates an administrative fee to be paid by participants to cover costs associated with the development and implementation of the system. Under 77-2-4.2(5)(h)(i), the “Judicial council shall set and periodically adjust the fee...in an amount that the judicial council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program...” The use of automated orders will help keep the administrative fee lower and more cost effective for court patrons. The AOC estimates that a \$5.00 fee is necessary to cover initial implementation and operation costs. Staff will provide periodic reports and recommendations to the Judicial Council on any necessary adjustments to that amount.

In accordance with CJA 4-208(2)(C) and (3)(D), the Judicial Council must approve all automated processes developed by the AOC and the form and content of automated orders. Policy, Planning, and Technology recommends that the ***rules be adopted on an expedited basis with an October 1, 2022 effective date***, followed by a 45-day public comment period.

Attached:

- Outline of automated process
- New – Automated orders re deferred traffic prosecution
- New – Standing Order authorizing presiding judge signatures on automated deferred traffic prosecution orders
- Rule amendments:
 - CJA 3-108
 - CJA 4-208
 - CJA 4-403

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

Deferred Traffic Prosecution Outline

- 1) QR code or URL given to users will take them to the Deferred Traffic Prosecution (DP) webpage
- 2) Users will click on the "Get Started" button which will redirect them to a modified MyCase registration page
- 3) Users will be asked to enter the information listed below to register. This information is needed for two reasons: to create/login to a MyCase account and to validate their personal information with CORIS and the Department of Public Safety for initial eligibility check
 - a) First, Middle, and Last name
 - b) Citation number OR court case number
 - c) Citation date
 - d) Court location
 - e) Driver License number
 - f) Email address
 - g) User will be emailed a PIN to enter. Once the PIN is entered, a password will be generated and emailed to the user.
- 4) A warning will display if validation fails for any of the information entered

The information you entered doesn't match our records.

Here are your options:

- Please contact the court listed on your citation for help.
 - Visit [Court Directory](https://www.utcourts.gov/directory) for the court's contact information (<https://www.utcourts.gov/directory>)
- Contact the Self-Help Center for additional assistance with account registration
 - Visit [Self-Help](https://www.utcourts.gov/selfhelp/contact/) to contact the Self-Help Center (<https://www.utcourts.gov/selfhelp/contact/>)
- Visit our [Information Page](#) for details about Deferred Traffic Prosecution

Back

Exit

- a)
- 5) CORIS will determine eligibility at the time an eCitation is filed. If a user with an eligible TN or TC case type enters from the modified registration page or from the existing MyCase registration/login page, the message below will display

Your case is eligible to resolve through a new program called Deferred Traffic Prosecution.

- The process is completely voluntary.
- You can choose to not participate in deferred prosecution and instead handle your citation through the normal processes including paying the fine, going to court to challenge the ticket, speaking with the prosecutor, and speaking with the judge.
- Visit our [Information Page](#) for more details about Deferred Traffic Prosecution



Visit [Guided Interview](#) to begin

a)

- b) Existing users with an eligible TN or TC case type will have the option to begin the DP guided interview by clicking on "File an eDocument" and selecting "Guided Interview"
 - c) For eligible cases, the gavel icon will also display next to the case type on the main MyCase screen and will display the message above upon click
- 6) The description of DP will display once the guided interview begins

Your case is eligible to resolve through a new program called "deferred traffic prosecution."

- The process is completely voluntary.
- You can choose to not participate in deferred prosecution and instead handle your citation through the normal processes including going to court to challenge the ticket, speak with the prosecutor, and speak with the judge.

Go Back

Next

a)

Participation in deferred traffic prosecution will result in your case being dismissed if you complete the following steps:

1. Answer questions to determine your eligibility
2. Plead "no contest" to all offenses on the eligible citation ("no contest" means the driver does not want to contest — or challenge — the citation);
3. Pay a total fine of \$___ for the offenses on the eligible citation in full today or by MM/DD/YYYY;
4. Pay a \$___ administration fee in full today or by MM/DD/YYYY; and
5. Have no new traffic convictions in the 12-month period following your application for deferred prosecution.

Go Back

Next

b)

**If you successfully complete all the steps:
(use ADA green)**

1. Your "no contest" plea will be automatically withdrawn at the end of the 12-month period.
2. Your case will be dismissed.
3. The fine and administration fee are non-refundable.

**If you don't successfully complete all the steps
because you are convicted of a new traffic
offense during the 12-month period:
(use ADA red)**

1. Your "no contest" plea will be **AUTOMATICALLY** entered as a conviction on your driving record. You will **NOT** have an opportunity to appear in court.
2. Your case will be closed without any further court-imposed consequence.
3. The fine and administration fee are non-refundable.

Go Back

Next

c)

7) Verification steps

- a) User will be asked to verify their name and date of birth as listed on the citation

(1)

Is this your name as listed on your citation?

First name*

Last name*

[Go Back](#) [Yes](#) [No](#)

If your information is listed incorrectly on your citation, you can contact the [court](#) to correct it.

(2)

Is this your date of birth as listed on your citation?

Date of Birth*

[Go Back](#) [Yes](#) [No](#)

If your information is listed incorrectly on your citation, you can contact the [court](#) to correct it.

- 8) After the user verifies their information they will be taken through a series of slides outlining what DP means for them
- 9) User will be asked to choose whether they want to participate in DP
- 10) If user chooses to participate in DP they will be asked to agree to each term and the application/order will generate for signature

i)

Do you agree to the following terms?

☐ Terms of agreement

☐ Terms of agreement

☐ Terms of agreement

[Go Back](#) [Agree](#)

- 11) Once the application/order is electronically signed, the user will be asked for payment
 - a) Courts using ePayments app (Heartland): users can pay with a Visa or Mastercard
 - b) Courts not using ePayments or users without a Visa or Mastercard: payment will need to be made via the court's web page or in-person at the courthouse
- 12) When payment is successful
 - a) Case type will change from to DP
 - b) Plea = No Contest
 - c) Plea disposition = Deferred Traffic Prosecution (DT)
 - d) Case history note & Critical Message = Deferred Prosecution Automation
 - e) Application/order is eFiled
 - f) Information is reported to DLD (including the new plea disposition code)
- 13) An automated report will be run daily to check for dismissals/convictions
 - a) If DP is successful after 12 mos
 - i) Plea = removed
 - ii) Plea disposition = Dismissed with Prejudice
 - iii) Case disposition = Dismissed with Prejudice

- iv) Order dismissing case is eSigned and eFiled
 - v) Information is reported to DLD
- b) If DP isn't successful at any point
 - i) Plea = remains No Contest
 - ii) Plea disposition = changes to No Contest
 - iii) Case Disposition = Charges all disposed
 - iv) Order entering conviction is eSigned and eFiled
 - v) Information is reported to DLD

In the District / Justice Court of Utah
[district_number] Judicial District, [county_name] County / [city_name] City

[prosecuting_entity],

Plaintiff,

vs.

[defendant_name]

[defendant_dob]

Defendant.

Application and Order of Deferred Traffic Prosecution

Case Number: [case_number]

CHARGES

1. Charge, plea, and disposition
2. Charge, plea, and disposition
3. Charge, plea, and disposition

The matter before the court is the application and order of deferred traffic prosecution for the case pursuant to Utah Code § 77-2-4.2.

1. Terms of order (pay fine(s) and admin fee in full by specific date or agreement is null)
2. Terms of order
3. Terms of order
4. Terms of order
5. Terms of order (12 mos deferral)

The successful completion of the terms of this order will result in this case being dismissed with prejudice. A conviction for the charge(s) will be entered if any of the terms of this order aren't completed successfully.

Defendant's eSignature

Date eSigned

Judge's signature will appear at the top of the first page of this document.

In the District / Justice Court of Utah
[district_number] Judicial District, [county_name] County / [city_name] City

[prosecuting_entity],

Plaintiff,

vs.

[defendant_name]

[defendant_dob]

Defendant.

**Order of Dismissal with Prejudice -
Deferred Traffic Prosecution**

Case Number: [case_number]

CHARGES

1. Charge, plea, and disposition
2. Charge, plea, and disposition
3. Charge, plea, and disposition

The matter before the court is the automated order of dismissal with prejudice - deferred traffic prosecution of the case pursuant to Utah Code § 77-2-4.2.

This case has been identified by the Judiciary's automated deferred traffic prosecution review process as one meeting the requirements for an automated order of dismissal with prejudice - deferred traffic prosecution. The defendant completed the terms of the application/order of deferred traffic prosecution successfully.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules 3-108, 4-208, and 4-403.

The Court Orders the charge(s) and case dismissed with prejudice.

Judge's signature will appear at the top of the first page of this document.

In the District / Justice Court of Utah
[district_number] Judicial District, [county_name] County / [city_name] City

[prosecuting_entity],

Plaintiff,

vs.

[defendant_name]

[defendant_dob]

Defendant.

**Order Entering Conviction - Deferred
Traffic Prosecution**

Case Number: [case_number]

CHARGES

1. Charge, plea, and disposition
2. Charge, plea, and disposition
3. Charge, plea, and disposition

The matter before the court is the order entering conviction - deferred traffic prosecution of the case pursuant to Utah Code § 77-2-4.2.

This case has been identified by the Judiciary's automated deferred traffic prosecution review process as one meeting the requirements for an automated order entering conviction - deferred traffic prosecution. The defendant failed to complete the terms of the application/order of deferred traffic prosecution successfully.

Issuance of this order is authorized by standing order and Utah Code of Judicial Administration Rules 3-108, 4-208, and 4-403.

The Court Orders the conviction of the charge(s) entered and this case closed with no further action.

Judge's signature will appear at the top of the first page of this document.

In the [district number] Judicial District
State of Utah

In Re: Deferred Traffic Prosecution Cases

STANDING ORDER

TO THE [DISTRICT] [JUSTICE] COURTS IN THE [district number] JUDICIAL DISTRICT:

IT IS HEREBY ORDERED that the Administrative Office of the Courts may prepare automated deferred traffic prosecution orders and automatically affix the presiding judge's signature to such orders, pursuant to the provisions in Utah Code Section 77-2-4.2 and Code of Judicial Administration Rules 3-108, 4-208, and 4-403.

IT IS FURTHER ORDERED that the Administrative Office of the Courts may automatically issue signed orders only when the requirements of Utah Code Sections 77-2-4.2, Utah Rules of Procedure, and Code of Judicial Administration have been met.

Dated this day of , 20

[Name], Presiding Judge
[district number] Judicial District

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

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

Applicability:

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

Statement of the Rule:

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

(1)(A) when assistance is needed because of a judicial vacancy or an absence due to an illness, accident, or disability;

(1)(B) to prevent the occurrence of or to reduce a critical accumulated backlog;

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

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

(1)(E) to mentor a newly appointed judge;

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

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

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

(1)(I) to handle automatic expungement cases; and

(1)(J) to serve on a grand jury panel.

(2) **Assigning a senior judge for judicial assistance.**

(2)(A) Unless exigent circumstances occur, a presiding judge shall seek assistance under the priorities listed in paragraph (3) before assigning a senior judge.

(2)(B) If the assignment of a senior judge shall be for more than 14 judicial days, the presiding judge shall seek approval from the Management Committee, and present to the Management Committee a plan for meeting the needs of the court and a budget to implement the plan. The plan should describe the calendars to be covered by judges of the district, judges of other districts, and senior judges. The budget should estimate the funds needed for travel by the judges and senior judges.

(3) Criteria for transferring or assigning judges. The transfer or assignment of judges for judicial assistance under this rule, shall, in general, be based upon the following priorities:

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

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

(3)(B)(i) active judges from a court of equal jurisdiction in a different geographical division than the court in need, and who are in close proximity to that court;

(3)(B)(ii) active senior judges from a court of equal jurisdiction to the court in need and who are in close proximity to that court;

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

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

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

(3)(C) availability;

(3)(D) expenses and budget.

(4) Assignment of active judges.

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

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

(4)(B) Any active judge of a court of record may serve temporarily as the judge of a court with different jurisdiction in the same or a different judicial district upon assignment by the presiding officer of the Council or assignment by the state court administrator or designee with the approval of the presiding officer of the Council.

(4)(C) The presiding officer of the Council may appoint a district court presiding judge as the signing judge for automatic expungements and deferred traffic prosecution orders in all district courts within the presiding judge's district with jurisdiction over eligible cases. The length of the assignment may coincide with the judge's term as presiding judge.

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

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

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

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

Effective: October 1, 2022~~6/28/2021~~

Rule 4-208. ~~Automatic expungement of cases~~Automated case processing procedures.**Intent:**

The intent of this rule is to govern the Administrative Office of the Court's development and implementation of ~~an~~ automated expungement and deferred traffic prosecution processes.

This rule applies to cases in district and justice courts.

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

~~(1)(A) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety.~~

~~(1)(B) "Clean slate eligible case" means the same as defined in Utah Code §77-40-102.~~

~~(1)(C) "Conviction" means a judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.~~

~~(1)(D) "Expunge" means to seal or otherwise restrict access to the individual's court record when the record includes a criminal investigation, detention, arrest, or conviction.~~

(2) Automated expungement and deferred traffic prosecution processes

(2)(A) The Administrative Office of the Courts shall develop and implement an automated process for expunging eligible court records expungement and deferred traffic prosecution processes.

(2)(B) Automated processes must comply with the requirements outlined in the Utah Rules of ~~Criminal~~ Procedure and the Utah ~~Expungement Act~~ Code.

(2)(C) All automated ~~expungement~~ processes developed by the Administrative Office of the Courts shall be approved by the Utah Judicial Council.

(3) Standing and automated orders ~~and orders of expungement~~

(3)(A) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automatic expungements in all district courts within the presiding judge's district in accordance with Rule 3-108.

(3)(B) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automated deferred traffic prosecution orders in all district courts within the presiding judge's district with jurisdiction over eligible cases in accordance with Rule 3-108.

(3)(~~CB~~) A justice court presiding judge may act as a signing judge for automatic expungements and automated deferred traffic prosecution orders in all justice courts within the presiding judge's district. The length of the assignment must coincide with the judge's term as a presiding judge.

(3)(C) If the district or justice court presiding judge determines that the requirements under the Utah Code, Utah Rules of ~~Criminal~~ Procedure, and this rule have been met, the presiding judge shall issue a standing order authorizing the Administrative Office of the Courts to prepare and automatically affix the presiding judge's judicial signature to orders of expungements and deferred traffic prosecution issued in relation to cases from that judicial district.

(3)(D) The form and content of automated orders ~~of expungement~~ must be approved by the Utah Judicial Council.

(4) Notice of action taken.

~~(4)(A)~~ The Administrative Office the Courts shall send notice that an order of ~~expungement~~ deferred traffic prosecution has been issued in accordance with the Utah Rules of ~~Criminal~~ Procedure. Notifications and orders may be sent electronically.

Effective: ~~5/1/2022~~ October 1, 2022

Rule 4-403. Electronic signature and signature stamp use.**Intent:**

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

Applicability:

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

Statement of the Rule:

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

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

(1)(B) bench warrants;

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

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

(1)(E) orders to show cause and orders to appear/attend under URCP 7A(c)(4) and URCP 7B(c)(4);

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

(1)(G) summons;

(1)(H) supplemental procedure orders;

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

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

(1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum; and

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

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

(3) The electronic signature of a judge may be automatically affixed to the following documents without the need for specific direction from the assigned judge when issued using a form approved by the Judicial Council;

(3)(A) a domestic relations injunction issued under URCP 109;

~~and~~

(3)(B) an automatic expungement order issued under Utah Code ~~§ 77-40-114; and~~

(3)(C) automated orders related to deferred traffic prosecution cases under Utah Code § 77-2-4.2.

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

Effective: ~~5/24/2021~~ October 1, 2022

Tab 6

Agenda



Administrative Office of the Courts

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

August 11, 2022

Ronald Gordon, Jr.
State Court Administrator
Neira Saiperas
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council
FROM: Keisa Williams
RE: Rule for Final Approval

Following a 45-day comment period, Policy and Planning recommends that the following rules be approved as final with an *effective date of November 1, 2022, unless otherwise noted*.

CJA 4-202.03. Records access. (AMEND)

Allows a petitioner in an expunged case to obtain a certified copy of the expungement order and case history upon request and in-person presentation of positive identification. This mirrors the process for adoptive parents in obtaining a certified copy of an adoption decree.

- No public comments were received

CJA 6-501. Reporting requirements for guardians and conservators. (AMEND).

Incorporates changes related to H.B. 320 (Guardianship Bill of Rights), streamlines and clarifies exceptions to reporting requirements, outlines procedures and timelines for approval of and objection to reports, and requires the use of a Judicial Council-approved Order on Review and report forms that are substantially the same as Judicial Council-approved forms.

- Two public comments were received (see attached).
- In response to comments, the Policy, Planning, and Technology Committee renamed “coversheet” to “Order on Review of Guardian or Conservator Report” (“Order on Review”) to clearly define what it is and to ensure it is recognized as a critical document in the file.

CJA 4-508. Guidelines for ruling on motion to waive fees. (AMEND)

Amendments are in response to S.B. 87, effective May 4, 2022. Among other things, S.B. 87 amends provisions regarding affidavits of indigency and requires a court to find an individual indigent under certain circumstances.

- Two public comments were received (attached).
- The Policy, Planning, and Technology Committee adopted the proposed amendments made by Michael Drechsel, which the Committee believes also address Judge Westfall’s concern. The hearing contemplated under paragraph (6) would take place when the court actually “hears the cause” and considers the merits of the underlying cause of action. At that time, the court would reassess the initial decision made under paragraph (3), which is consistent with legislative intent.

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

Requiring a new hearing would be contrary to the stated intention behind S.B. 87, which was to ease the process of finding individuals indigent for filing fee purposes.

The Judicial Council approved initial amendments to Rule 4-508 on an expedited basis with a May 25, 2022 effective date. Policy, Planning, and Technology recommends that the Council adopt the latest revisions and approve the rule as final with an *August 19, 2022 effective date*.

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

Rule 4-202.03. Records Access.**Intent:**

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

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

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

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

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

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

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

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

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

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

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

(3)(H) anyone by court order;

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

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

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

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

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

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

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

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

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

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

(4)(G) anyone by court order;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5)(M) anyone by court order.

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

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

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

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

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

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

(5)(N)(vi) anyone by court order.

(5)(O) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

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

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

(6)(B) a law enforcement agency;

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

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

(6)(E) the victim of a delinquent act may access the disposition order entered against the minor; and

(6)(F) the parent or guardian of the victim of a delinquent act may access the disposition order entered against the minor if the victim is an unemancipated minor or under legal incapacity.

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

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

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

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

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

(7)(E) anyone by court order;

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

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

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

(7)(I) a person given access to the record in order for juvenile probation to fulfill a probation responsibility.

(8) Court personnel shall permit access to court records only by authorized persons. The court may order anyone who accesses a non-public record not to permit further access, the violation of which may be contempt of court.

(9) If a court or court employee in an official capacity is a party in a case, the records of the party and the party's attorney are subject to the rules of discovery and evidence to the same extent as any other party.

Effective: ~~11/1/2019~~ November 1, 2022

Rule 6-501. Reporting requirements for guardians and conservators.**Intent:**

To establish standards and procedures for annual reports and accountings that guardians and conservators are required to file under ~~the requirements sufficient to satisfy~~ the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators ~~with the following exceptions:~~

~~This rule does not apply if the conservator or guardian is the parent of the ward.~~

~~Paragraph (1) does not apply to the guardian of a minor if the guardianship is limited to the purpose of attending school.~~

~~Paragraph (1) does not apply to a conservator licensed under the Title 7, Chapter 5, Trust Business, to a guardian licensed under §75-5-311(1)(a), or to the Office of Public Guardian.~~

~~Paragraphs (6)(A), (6)(B) and (6)(C) do not apply to the guardian of a minor if the guardianship is limited to the purpose of attending school. A person interested in the minor may request a report under Utah Code Section 75-5-209.~~

~~Paragraph (6)(D) does not apply to the guardian of a minor if the minor's estate is deposited in an account requiring judicial approval for withdrawal or if there is no estate. A person interested in the minor may request an accounting under Utah Code Section 75-5-209.~~

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

(1)(A) "Accounting" means the annual accounting required by Utah Code Section 75-5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.

(1)(B) "Interested person" means the respondent, if he or she is not a minor, the respondent's guardian and conservator, the respondent's spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code Section 75-5-406. If no person is an interested person, then interested person includes at least one of the respondent's closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code Section 75-5-207.

(1)(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.

43 (1)(D) "Serve" means any manner of service permitted by Utah Rule of Civil Procedure 5.

44
45 (1)(E) "Protected person" means a minor or an incapacitated person for whom the court
46 appoints a guardian or a protected person for whom the court appoints a conservator.

47
48 (1)(F) "Report" means the inventory, accounting, or annual report on the status of the
49 protected person under Utah Code Sections 75-5-209 and 75-5-312, and the final accounting
50 under Sections 75-5-210 and 75-5-419

51
52 (1)(G) "Respondent" means a person who is alleged to be incapacitated and for whom the
53 appointment of a guardian or conservator is sought.

54
55 **(2) Exceptions.**

56 (2)(A) Paragraph (4) does not apply to the following:

57
58 (2)(A)(i) a guardian licensed under Utah Code Section 75-5-311(1)(a);

59
60 (2)(A)(ii) the Office of Public Guardian; or

61
62 (2)(A)(iii) a conservator licensed under Utah Code Section 7-5-2.

63
64 (2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a
65 parent of the protected person.

66
67 (2)(C) Paragraph (7)(C) does not apply to the guardian of a minor if the minor's estate consists
68 of funds that are deposited in a restricted account, which requires judicial approval for
69 withdrawal, or if there is no estate.

70
71 (2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of
72 receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the
73 minor reaches the age of majority, or 2) no structured settlement payments are to be made
74 until the minor reaches the age of majority.

75
76 **(34) Examination and private information record.**

77 (34)(A) Before the court enters an order appointing a guardian or conservator, the **proposed**
78 guardian or conservator ~~shall~~**must** file a verified statement showing satisfactory completion of
79 a court-approved examination on the responsibilities of a guardian or conservator.

80
81 (34)(B) ~~After~~**Before** the court enters ~~an~~**the** order of appointment, the **proposed** guardian or
82 conservator ~~shall~~**must** file ~~within 7 days~~ a completed and verified Private Information Record
83 form provided by the Administrative Office of the Courts.

84
85 (3)(C) The guardian or conservator ~~shall~~**must** continue to keep the court apprised of any

changes to the guardian or conservator's contact information.

(42) Recordkeeping. The guardian ~~shall~~must keep contemporaneous records of significant events in the life of the ~~ward~~protected person and produce them if requested by the court. The conservator ~~shall~~must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator ~~shall~~must maintain the records until the appointment is terminated and then deliver them to the ~~ward~~protected person, if there is no successor, to the successor guardian or conservator, or to the personal representative of the ~~protected person~~ward's estate.

~~(3) Definitions.~~

~~(A) "Accounting" means the annual accounting required by Utah Code Section 75-5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.~~

~~(B) "Interested persons" means the ward, if he or she is of an appropriate age and mental capacity to understand the proceedings, the ward's guardian and conservator, the ward's spouse, adult children, parents and siblings and anyone requesting notice under Utah Code Section 75-5-406. If no person is an interested person, then interested person includes at least one of the ward's closest adult relatives, if any can be found.~~

~~(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.~~

~~(D) "Serve" means any manner of service permitted by Utah Rule of Civil Procedure 5.~~

~~(E) "Report" means the annual report on the status of the ward required by Utah Code Section 75-5-209 and Section 75-5-312.~~

~~(F) "Ward" means a minor or an incapacitated person for whom the court appoints a guardian or a protected person for whom the court appoints a conservator.~~

~~(54) Report forms.~~ Subject to the requirements of Paragraph ~~(65)~~:

~~(54)(A) forms substantially conforming to the Judicial Council-approved forms ~~produced by the Utah court website~~ are acceptable for content and format ~~for the report and accounting filed under the Utah Uniform Probate Code~~;~~

~~(54)(B) a corporate fiduciary may file its internal report or accounting; and~~

~~(54)(C) if the ward~~protected person~~'s estate is limited to a federal or state program requiring an annual accounting, the fiduciary may file a copy of that accounting.~~

~~(65) Information required in reports, cover sheet, and service.~~Report information.

~~(6)(A) The annual report, inventory, and annual accounting ~~shall~~must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period. Compliance with Paragraph (4) is presumed sufficient, but the court may direct that a report or accounting be prepared with content and format as it deems necessary.~~

~~(6)(B) The annual report and annual accounting must include the Judicial Council-approved Order on Review of Guardian or Conservator Report ("Order on Review"), which must be filed~~

as a proposed document.

(6)(C) The guardian, conservator, or both must serve a copy of the report, inventory, and accounting under Rule 5 of the Utah Rules of Civil Procedure on all interested persons. The annual report and annual accounting must include the following language at the top right corner of the first page, in bold type: **You have the right to object to theis report or accounting within 28 days of service. If you do not object within that time, your objection may be waived.**

(76) Annual sStatus reports.

(67)(A) The guardian shallmust file with the appointing court a report on the status of the wardprotected person no later than 60 days after the anniversary of the appointment. The status report must be in substantially the same form as the status report form approved by the Utah Judicial Council, including the required attachments. The guardian shallmust file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code Section 75-5-313. The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

~~(6)(B) The guardian shall serve a copy of the report on all interested persons with notice that the person may object within 30 days after the notice was served.~~

~~(76)(GB) If an interested person objects, the person shall specify in writing the entries to which the person objects and state the reasons for the objection. The person shall file the objection with the court and serve a copy on all interested persons. If an objection is filed, the judge shall conduct a hearing.~~ The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge shallmust approve it.

(67)(DC) If there is no conservator, the guardian shallmust file the inventory and accounting required of a conservator under Utah Code Section 75-5-312.

(87) Inventory-reports.

(87)(A) Within 90 days after the appointment, the conservator shallmust file with the appointing court the inventory required by Utah Code Section 75-5-418. The inventory must be in substantially the same form as the inventory form approved by the Utah Judicial Council, including the required attachments. ~~For good cause t~~he court may extend the time for filing the inventory for good cause.

~~(7)(B) The conservator shall serve a copy of the inventory on all interested persons with notice that the person may object within 30 days after the notice was served.~~

~~(87)(GB) If an interested person objects, the person shall specify in writing the entries to which~~

~~the person objects and state the reasons for the objection. The person shall file the objection with the court and serve a copy on all interested persons. If an objection is filed, the judge shall conduct a hearing.~~ The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge shall must approve it.

(98) Annual accounting reports.

(98)(A) The conservator shall must file with the appointing court an accounting of the estate of the wardprotected person no later than 60 days after the anniversary of the appointment. The accounting must be in substantially the same form as the accounting form approved by the Utah Judicial Council, including the required attachments. The conservator shall must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code Section 75-5-403. The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

~~(8)(B) The conservator shall serve a copy of the accounting on all interested persons with notice that the person may object within 30 days after the notice was served.~~

~~(98)(CB) If an interested person objects, the person shall specify in writing the entries to which the person objects and state the reasons for the objection. The person shall file the objection with the court and serve a copy on all interested persons. If an objection is filed, the judge shall conduct a hearing.~~ The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge shall must approve it.

(109) Final accounting.

(109)(A) The conservator shall must file with the court a final accounting of the estate of the wardprotected person with the motion to terminate the appointment.

~~(9)(B) The conservator shall serve a copy of the accounting on all interested persons with notice that the person may object within 30 days after the notice was served.~~

~~(109)(CB) If an interested person objects, the person shall specify in writing the entries to which the person objects and state the reasons for the objection. The person shall file the objection with the court and serve a copy on all interested persons. If an objection is filed, the judge shall conduct a hearing.~~ The judge court may conduct a hearing even though no objection is filed. If the judge court finds that the accounting is in order, the judge court shall must approve it.

(11) Objections.

~~(11)(A) If an interested person objects to a report or accounting, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the~~

215 date of service of the report or accounting. A request to submit must be included with the
216 objection. The court may for good cause, including in order to accommodate a person with a
217 disability, waive the requirement of a writing and document the objection and request to submit
218 in the court record.

219
220 (11)(B) The objection must specify in writing the entries to which the person objects and state
221 the reasons for the objection.

222
223 (11)(C) An objection to a report or accounting may not contain a request to remove or
224 substitute the guardian or conservator. Any request for removal or substitution of the guardian
225 or conservator must be filed as a separate petition consistent with Utah Code Section 75-5-
226 307 or 75-5-415.

227
228 (11)(D) If an objection is filed, the court must conduct a hearing unless the court determines
229 that a hearing is not necessary. If the court determines that a hearing is not necessary, the
230 court must issue a minute entry or order stating why a hearing is not necessary.

231
232 (11)(E) At the hearing, the court may require the guardian or conservator to supplement or
233 amend the report or accounting if the court determines there is good cause for the objection.

234
235 (11)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court
236 may deny the objection and approve the report or accounting.

237
238 (12) **Waiver.** If an interested person does not object to a report or accounting within 28 days of
239 service, the interested person waives any objection unless:

240 (12)(A) the objection relates to matters not fairly disclosed by the report or accounting; or

241
242 (12)(B) the time for objection is extended by the court under Rule 6 of the Utah Rules of Civil
243 Procedure. If the request for an extension is made before the time has run, the court may
244 extend the time for good cause. If the request is made after the time has run, the court may
245 extend for excusable neglect.

246
247 (13) **Report approval.**

248 (13)(A) **Approval.** The court must examine and approve reports as required by Utah Code
249 sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the
250 court's knowledge notice has been given to every person entitled to notice, no objection has
251 been received, the report meets the requirements set forth by the report form, and the court
252 has not requested additional information or scheduled a hearing. Such approval does not
253 foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an
254 appeal time.

255
256 (13)(B) **Notice to interested persons.** When a court approves a report, the court must note
257 that approval on the Judicial Council-approved Order on Review and place the Order on

Review in the case file. When a court does not approve a report, the court must indicate on the Order on Review, or in an order, the reasons for non-approval, any additional actions required, and serve the Order on Review or order on all interested persons entitled to notice.

(14) Report on a minor. Under Utah Code Section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the Utah Judicial Council, including the required attachments.

Effective May/~~November~~ 1, 20~~22~~²⁴

Rule 4-508. Guidelines for Ruling on a Motion to Waive Fees.**Intent:**

To promote statewide consistency in deciding motions to waive fees in civil cases and in the expungement of criminal records in which the moving party is not incarcerated a prisoner.

To promote statewide consistency in deciding motions to waive fees in juvenile court cases in which the moving party is not incarcerated a prisoner.

~~Nothing in this rule should be interpreted as limiting the discretion of the judge to decide a motion to waive fees.~~

Applicability:

This rule applies to all civil and small claims cases and in the expungement of criminal records in which the moving party is not incarcerated a prisoner.

This rule applies to all juvenile court cases in which the moving party is not incarcerated a prisoner.

As used in this rule “fee waiver” and similar phrases include waiving the court filing fee and any ancillary fees in full or in part, as may be ordered by the judge.

Statement of the Rule:

(1) The moving party must complete a ~~motion~~ Motion to waive ~~Waive fees~~ Fees ~~and a financial affidavit~~ approved by the Judicial Council’s Standing Committee on Court Forms. If requested by the court, the moving party must provide supporting documentation of the claims made in the affidavit. In juvenile court, the minor or a minor’s parent, guardian or authorized representative may move to waive fees.

(2) Upon the filing of a ~~motion~~ Motion to waive ~~Waive fees~~ Fees ~~and financial affidavit~~, the court, sheriff or any other provider of a service offered by or through a government entity shall do what is necessary and proper as promptly as if the fee had been fully paid.

(3) A motion to waive fees may be decided without notice to the other parties, requires no response, request to submit for decision or hearing. The court will review the affidavit and make an independent determination whether the fees should be waived. The court should apply a common sense standard to the information and evaluate whether the information is complete, consistent and true. Section 78A-2-304 requires a party to pay a full or partial fee if the financial affidavit and any further questioning demonstrate the party is reasonably able to pay a fee.

(4) ~~In general, a~~ party is reasonably unable to pay a fee if the moving party:

(4)(A) receives gross monthly income that exceeds is at or below 1050% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2);

(4)(B) ~~the moving party has liquid assets that can be used to pay the fee without harming the party’s financial position~~ receives benefits from a means-tested government program, including the Family Employment Program, Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;

~~(4)(C) (C) the moving party has credit that can be used to pay the fee without harming the party's financial position~~receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or

~~(4)(D) the moving party has assets that can be liquidated or borrowed against without harming the party's financial position~~has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual's family of food, shelter, clothing, or other necessities;

(5) If the reason for the moving party's inability to pay is insufficient income under paragraph (4)(D), the court must consider the moving party's:

(5)(A) identity and residence;

(5)(B) amount of income, including any government financial support, alimony, or child support (but not government programs where it would be unlawful to do so, such as the Supplemental Nutrition Assistance Program under 7 CFR 272.1(a));

(5)(C) assets owned, including real and personal property;

(5)(D) business interests;

(5)(E) accounts receivable;

(5)(F) securities, checking and savings account balances;

(5)(G) debts; and;

(5)(H) monthly expenses.

(6) At the time of hearing the cause, the court must question the moving party as to the moving party's ability to pay.

~~(4)(E) expenses are less than net income;~~

~~(4)(F) Section 30-3-3 applies and the court orders another party to pay the fee of the moving party; or~~

~~(4)(G) in the judge's discretion, the moving party is reasonably able to pay some part of the fee.~~

(7) If the moving party is represented by private counsel, the motion to waive fees may be granted in proportion to the attorney's discount of the attorney fee. The moving party's attorney must provide an affidavit describing the fee agreement and what percentage of the attorney's normal, full fee is represented by the discounted fee.

(8) A motion to waive fees should be ruled upon within ten days after being filed.

(8)(A) If the fee is fully waived, the court, sheriff or any other provider of a service offered by or through a government entity shall do what is necessary and proper as promptly as if the fee had been fully paid.

(8)(B) If the fee is not fully waived, the court, sheriff or any other provider of a service offered by or through a government entity may require payment of the fee before doing what is necessary and proper. If the service has already been performed, the court, sheriff or service provider may do what is necessary and proper to collect the fee, including dismissal of the case.

(86)(C) If the fee is not fully waived, the court shall notify the party in writing of the fee amount, the procedure to challenge the fee, and the consequences of failing to pay the fee.

(86)(D) If the motion is rejected because of a technical error, such as failure to complete a form correctly or to attach supporting documentation, the court shall notify the moving party, and the moving party may file a corrected motion and affidavit within 14 days after being notified of the decision.

(97) In addition to any statutory remedies, an order granting a fee waiver may be reviewed at any time if the court has jurisdiction of the case. If the court determines, after waiving a fee, that the moving party is reasonably able to pay the fee, including from the proceeds of a judgment, the court may modify its previous order. The court may allocate the fee among the parties under Utah Rule of Civil Procedure 54, Utah Code Section 30-3-3, or as otherwise provided by law.

Effective: ~~May 25~~August 19, 2022

UTAH COURT RULES – PUBLISHED FOR COMMENT

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Posted: May 31, 2022

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Code of Judicial Administration – Comment Period Closed July 15, 2022

The following rules are approved for a 45-day public comment period.

CJA04-020.03. Records access. (AMEND). Allows a petitioner in an expunged case to obtain a certified copy of the expungement order and case history upon request and in-person presentation of positive identification. This mirrors the process for adoptive parents in obtaining a certified copy of the adoption decree.

CJA06-0501. Reporting requirements for guardians and conservators. (AMEND). Incorporates changes related to H.B. 320 (Guardianship Bill of Rights), streamlines and clarifies exceptions to reporting requirements, outlines procedures and timelines for approval of and objection to reports, and requires the use of a Judicial Council-approved cover sheet and report forms that are substantially the same as Judicial Council-approved forms.

The following rules will go into effect *May 23, 2022*. Pursuant to **CJA Rule 2-205**, Expedited rulemaking procedure, the rules are subject to a 45-day comment period.

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

CATEGORIES

- [-Alternate Dispute Resolution](#)
- [-Code of Judicial Administration](#)
- [-Code of Judicial Conduct](#)
- [-Fourth District Court Local Rules](#)
- [-Licensed Paralegal Practitioners Rules of Professional Conduct](#)
- [-Rules Governing Licensed Paralegal Practitioner](#)
- [-Rules Governing the State Bar](#)

CJA04-0508. Guidelines for ruling on a motion to waive fees. (AMEND). The proposed amendments are in response to S.B. 87, effective May 4, 2022. Among other things, SB 87 amends provisions regarding affidavits of indigency and requires a court to find an individual indigent under certain circumstances.

CJA01-0204. Executive committees. (AMEND).

CJA01-0205. Standing and Ad Hoc Committees. (AMEND).

Creates a Standing Committee on Working Interdisciplinary Network of Guardianship Stakeholders (WINGS). Renames the Policy and Planning Committee to the “Policy, Planning, and Technology Committee.” In addition to its current responsibilities, the committee will now review and recommend technology policies and priorities. The Standing Technology Committee is dissolved.

The following rule will go into effect *July 1, 2022*. Pursuant to **CJA Rule 2-205, Expedited rulemaking procedure**, the rule is subject to a 45-day comment period.

CJA09-0109. Presiding Judges. (AMEND). Simplifies the leadership structure of justice courts and addresses the compensation disparity related to presiding and associate presiding judges by eliminating the position of Education Director. The Associate Presiding Judge will assume education duties.

This entry was posted in [-Code of Judicial Administration, CJA01-0204](#), [-Code of Judicial Administration, CJA01-0205](#), [CJA04-0202.03](#), [CJA04-0508](#), [CJA06-0501](#).

« [Code of Judicial Administration – Comment Period Closes August 11, 2022](#)

[Rules of Juvenile Procedure – Comment Period Closed July 2, 2022](#) »

UTAH COURTS

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- [Appendix F](#)
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- [CJA02-0106.01](#)
- [CJA02-0106.02](#)
- [CJA02-0106.03](#)
- [CJA02-0106.04](#)
- [CJA02-0106.05](#)
- [CJA02-0204](#)
- [CJA02-0206](#)
- [CJA02-0208](#)
- [CJA02-0208](#)
- [CJA02-0211](#)
- [CJA02-0212](#)
- [CJA03-0101](#)
- [CJA03-0102](#)
- [CJA03-0103](#)
- [CJA03-0103](#)
- [CJA03-0104](#)
- [CJA03-0105](#)
- [CJA03-0106](#)
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- [CJA03-0111.01](#)
- [CJA03-0111.02](#)

000093

4 thoughts on “Code of Judicial Administration – Comment Period Closed July 15, 2022”

Michael Drechsel
May 31, 2022 at 10:42 am

Comment on CJA Rule 4-508:

I would recommend dividing subsection (5) into two parts, as follows:

(5) If the reason for the moving party’s inability to pay is insufficient income under paragraph (4)(D), the court must consider the moving party’s:

(5)(A) identity and residence;

(5)(B) amount of income, including any government financial support, alimony, or child support (but not government programs where it would be unlawful to do so, such as the Supplemental Nutrition Assistance Program under 7 CFR 272.1(a));

(5)(C) assets owned, including real and personal property;

(5)(D) business interests;

(5)(E) accounts receivable;

(5)(F) securities, checking and savings account balances;

(5)(G) debts; and

(5)(H) monthly expenses.

(6) At the time of hearing the cause, the court must question the moving party as to the moving party’s ability to pay.

The reason for dividing subsection (5) is that the inquiry regarding the “insufficient income” factors is always required at the time the court reviews the motion / affidavit (if “insufficient income” is the asserted basis for waiving fees). The second part of subsection (5) (the first sentence in the current version of Rule 4-508) reflects statutory language for inquiring about the inability to pay when the court actually hears the merits of the underlying legal matter (i.e., the divorce, etc.). Because that is a separate process that occurs later in the proceedings, it seems wise for the language in Rule 4-508 to reflect that difference.

G. Michael Westfall
May 31, 2022 at 3:20 pm

Most requests to waive fees are filed in domestic matters. A significant percentage of domestic matters are settled or

- CJA03-0111.03
- CJA03-0111.04
- CJA03-0111.05
- CJA03-0111.06
- CJA03-0112
- CJA03-0113
- CJA03-0114
- CJA03-0115
- CJA03-0116
- CJA03-0117
- CJA03-0201
- CJA03-0201.02
- CJA03-0202
- CJA03-0301
- CJA03-0301.01
- CJA03-0302
- CJA03-0303
- CJA03-0304
- CJA03-0304.01
- CJA03-0305
- CJA03-0306
- CJA03-0306.01
- CJA03-0306.02
- CJA03-0306.03
- CJA03-0306.04
- CJA03-0306.05
- CJA03-0401
- CJA03-0402
- CJA03-0403
- CJA03-0404
- CJA03-0406
- CJA03-0407
- CJA03-0408
- CJA03-0410
- CJA03-0411
- CJA03-0412
- CJA03-0413
- CJA03-0414
- CJA03-0415
- CJA03-0418
- CJA03-0419
- CJA03-0420
- CJA03-0421
- CJA03-0501
- CJA03-0501
- CJA04-0103
- CJA04-0106
- CJA04-0110
- CJA04-0201
- CJA04-0202
- CJA04-0202.01
- CJA04-0202.02
- CJA04-0202.03
- CJA04-0202.04
- CJA04-0202.05
- CJA04-0202.06
- CJA04-0202.07

resolved by default and, therefore, resolved without a hearing. How are we expected to comply with subsection 5 in a divorce case if no hearing will ever be held?

Keri Sargent
June 16, 2022 at 11:47 am

RE: CJA Rule 6-501

Line 121, 128, 260: To more clearly define what the coversheet is, I suggest renaming it to "Order on Review of Annual Reports". This will help delineate it in the case history and mark it as a critical document in view of the retention records rule.
 Line 218: I would suggest not requiring a request to submit when an objection is filed. The annual report is not a motion, and the coversheet is to document that a judge has reviewed the report, not in response to a motion.

Michael A. Jensen
June 16, 2022 at 5:09 pm

Re CJA 6-501:

1. Line 62: Under Utah Code 75-5-2, there is NO "license" mentioned. The word is therefore inappropriate in the proposed amendment.

2. Lines 157, 176, 198, and 212: With respect to the judge approving a report or accounting, the words "in order" have no meaning defined. Further, in Lines 250-257, the term "Approving" is defined as meaning "the judge has reviewed it", and under Utah Code, the word "examined" is used. Accordingly, the words/terms should be consistent and better defined as to the obligation, duty and expectation of the judge. Currently, in practice, the judge is not expected to do anything more than to assure the report or accounting has been timely filed and no objections have been timely filed. Is the intent to require the judge to actually perform a cursory audit or make some calculations? I think not.

- CJA04-0202.08
- CJA04-0202.09
- CJA04-0202.10
- CJA04-0202.12
- CJA04-0203
- CJA04-0205
- CJA04-0206
- CJA04-0208
- CJA04-0302
- CJA04-0401
- CJA04-0401.01
- CJA04-0401.02
- CJA04-0401.03
- CJA04-0402
- CJA04-0403
- CJA04-0404
- CJA04-0405
- CJA04-0408
- CJA04-0408.01
- CJA04-0409
- CJA04-0410
- CJA04-0411
- CJA04-0501
- CJA04-0502
- CJA04-0503
- CJA04-0508
- CJA04-0509
- CJA04-0510
- CJA04-0510.01
- CJA04-0510.02
- CJA04-0510.03
- CJA04-0510.04
- CJA04-0510.05
- CJA04-0510.06
- CJA04-0601
- CJA04-0602
- CJA04-0603
- CJA04-0609
- CJA04-0610
- CJA04-0613
- CJA04-0701
- CJA04-0702
- CJA04-0704
- CJA04-0801
- CJA04-0901
- CJA04-0902
- CJA04-0903
- CJA04-0904
- CJA04-0905
- CJA04-0906
- CJA04-0907
- CJA05-0101
- CJA05-201
- CJA06-0101
- CJA06-0102
- CJA06-0104
- CJA06-0303

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Tab 7

Agenda

MEMORANDUM

TO: Judicial Council

FROM: Board of District Court Judges

DATE: August 19, 2022

RE: Rule 6-104 -Water Law Judges

[Rule 6-104. District Court Water Judges](#) will go into effect on November 1, 2022. According to this rule, the Judicial Council shall formally designate at least three district court judges who volunteer as water judges. In preparation for this new rule to go into effect, the Board of District Court Judges contacted judges who currently have water cases assigned to them and asked if they were interested in volunteering to be water judges.

The following judges are interested in serving as water judges and the Board of District Court Judges recommends that the Judicial Council designate these nine district court judges to serve as water judges.

[Judge Angela Fonnesbeck](#) (1st District)

[Judge Jennifer Valencia](#) (2nd District)

[Judge Laura Scott](#) (3rd District)

[Judge Patrick Corum](#) (3rd District)

[Judge Kraig Powell](#) (4th District)

[Judge Ann Marie McIff Allen](#) (5th District)

[Judge Greg Lamb](#) (8th District)

[Judge Michael Westfall](#) (5th District) (possible short-term)

[Judge Kent Holmberg](#) (3rd District) (possible short-term)

Tab 8

Agenda



Administrative Office of the Courts

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

August 11, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Shane Bahr, District Court Administrator

DATE: August 19, 2022

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.

The Judicial Council is responsible for recertifying court commissioners whose terms expire December 31. The following court commissioners are up for recertification and are seeking retention:

Court Commissioners:

Last_Name	First_Name	Salute	Court	Geographic Division	Term Start	Term End
Tack	Michelle	Commissioner	District Court	Third Judicial District	1/1/2019	12/31/2022
Ito	Marian	Commissioner	District Court	Fourth Judicial District	8/1/2019	12/31/2021

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.

The Judicial Council shall determine whether the court commissioners meet the standard of performance as provided in Rule 3-111.

According to the information from the self-declaration form, surveys and annual performance evaluations, Commissioner Ito and Commissioner Tack meet the standard performance standards in the following areas:

- Survey scores
- Judicial education records
- Self-declaration
- No formal or informal sanctions
- Performance evaluations

Neither of the commissioners has a complaint pending before the Commissioner Conduct Commission and there weren't any public comments submitted for either commissioner. 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.

If a court commissioner meets all the certification standards, it is presumed that the Council will certify the individual for retention. If the court commissioner fails to meet all 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.

Tab 9

Agenda



Administrative Office of the Courts

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

August 11, 2022

Ronald B. Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy State Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Neira Siaperas, Deputy State Court Administrator

RE: Senior Judge Appointments

Code of Judicial Administration Rules

The following Code of Judicial Administration rules are relevant to appointment and reappointment of senior judges:

[CJA Rule 11-201](#) Senior Judges and [CJA Rule 11-203](#) Senior Justice Court Judges establish the qualifications, term, authority, appointment, and assignment for senior judges.

[CJA Rule 3-111](#) Performance Evaluation of Active Senior Judges and Court Commissioners establishes the criteria and standards for performance evaluations.

Initial Appointment

Hon. David Hamilton, Second District Court, will retire on October 31, 2022 and has applied to become an active senior judge.

Reappointments

Active senior judges seeking reappointment

The following active senior judges of courts of record have applied for reappointment:

Hon. Kate Appleby, Hon. Kent Bachman, Hon. Robert Dale, Hon. Lynn Davis, Hon. Donald Eyre, Hon. Dennis Fuchs, Hon. Ben Hadfield, Hon. Royal Hansen, Hon. Kimberly Hornak, Hon. Ernest Jones, Hon. Gordon Low, Hon. Michael Lyon, Hon. Darold McDade, Hon. Frederic Oddone, Hon. Sandra Peuler, Hon. Robin Reese, Hon. Gary Stott, and Hon. Brent West.

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

The following active senior justice court judge has applied for reappointment:
Hon. Scott Cullimore.

Inactive senior judges seeking reappointment

The following inactive senior judges of courts of record have applied for reappointment:
Hon. Lyle Anderson, Hon. Leslie Brown, Hon. Hans Chamberlain, Hon. Paul Iwasaki,
Hon. Denise Lindberg, Hon. Tyrone Medley, Hon. Andrew Valdez, and Hon. Michael
Wilkins.

The following inactive senior justice court judges have applied for reappointment:
Hon. Dennis Barker, Hon. Holly Barringham, and Hon. Lesley Scott.

Judges not seeking reappointment

The following judges have not responded nor applied for reappointment and their terms will
expire on December 31, 2022:
Hon. Darold Butcher; Hon. Norman Ashton; Hon. Paul Lyman; and Hon. James Beesley.
Hon. Lee Dever has indicated that he will not seek reappointment when his term expires
on December 31, 2022.

Information

Initial Appointment

Judge Hamilton meets the qualifications for an active senior judge appointment as outlined in
Rule 11-201.

Reappointments (Inactive and Justice Court Judges)

All inactive senior judges seeking reappointment meet the qualifications as outlined in Rules 11-
201 and 11-203.

The Board of Justice Court Judges recommended reappointment of all senior justice court judges
seeking reappointment this term.

Reappointments (Active Senior Judges)

Subject to the Judicial Council's determination that the survey scores are satisfactory, all active
senior judges seeking reappointment meet the standards of performance as outlined in Rule 3-
111.

Fourteen judges meet the qualifications as outlined in Rules 11-201 and 11-203. Five judges are
not in compliance with Rule 11-201(1)(C)(vii) "accepts assignments, subject to being called, at
least two days per calendar year."

None of the judges have outstanding complaints after a finding of reasonable cause with the
Judicial Conduct Commission or the Utah Supreme Court [Rule 11-201(2)].

Tab 10

Agenda



Administrative Office of the Courts

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

August 11, 2022

Ronald Gordon, Jr.
State Court Administrator
Neira Siaperas
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council
FROM: Keisa Williams
RE: Rules for Public Comment

The Policy, Planning, and Technology Committee recommends that the following rules be approved for a 45-day public comment period.

CJA 4-202.02. Records classification. (AMEND)

Currently, the rules are unclear as to what happens to a record previously designated as sealed if it is included in the overall record on appeal. The proposed amendment would allow sealed records to remain sealed even if included in the record on appeal. Records may be unsealed by court order.

Appendix B. Justice Court Standards for Recertification. (AMEND)

Code of Judicial Administration Rule 9-108 requires that justice court standards be reviewed and updated every two years. After review, the Board of Justice Court Judges recommended adoption of the proposed amendments. The changes are intended to streamline the appendix, provide clarity, and incorporate recent statutory amendments.

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

Rule 4-202.02. Records Classification.**Intent:**

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) licensed paralegal practitioner name;

(2)(L)(iv) case number;

(2)(L)(v) case status;

(2)(L)(vi) civil case type or criminal violation;

(2)(L)(vii) civil judgment or criminal disposition;

(2)(L)(viii) daily calendar;

(2)(L)(ix) file date;

(2)(L)(x) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer or licensed paralegal practitioner appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(Q) name, business address, and business telephone number of judges;

(2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(U) order or decision classifying a record as not public;

(2)(V) private record if the subject of the record has given written permission to make the record public;

(2)(W) probation progress/violation reports;

(2)(X) publications of the administrative office of the courts;

(2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(Z) record of the receipt or expenditure of public funds;

(2)(AA) record or minutes of an open meeting or hearing and the transcript of them;

(2)(BB) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(CC) record of a request for a record;

(2)(DD) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(EE) rules of the Supreme Court and Judicial Council;

(2)(FF) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

(2)(GG) statistical data derived from public and non-public records but that disclose only public data; and

(2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be

a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

(3) Sealed Court Records. The following court records are sealed:

(3)(A) records in the following actions:

(3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on minors; and

(3)(A)(iv) Section 78B-8-402 – Actions for disease testing;

(3)(B) expunged records;

(3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;

(3)(D) records showing the identity of a confidential informant;

(3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;

(3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

(3)(G) records designated as sealed by rule of the Supreme Court;

(3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; ~~and~~

(3)(I) on appeal, any record previously designated as sealed by another court; and

(3)(~~J~~) other records as ordered by the court under Rule 4-202.04.

(4) Private Court Records. The following court records are private:

(4)(A) records in the following actions:

(4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;

(4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;

(4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and

(4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment.

(4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:

(4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;

(4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;

(4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;

(4)(B)(iv) Title 78B, Chapter 7, Protective Orders;

(4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;

(4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;

(4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);

(4)(C) records related to determinations of indigency;

- (4)(D) an affidavit supporting a motion to waive fees;
- (4)(E) aggregate records other than public aggregate records under subsection (2);
- (4)(F) alternative dispute resolution records;
- (4)(G) applications for accommodation under the Americans with Disabilities Act;
- (4)(H) jail booking sheets;
- (4)(I) citation, but an abstract of a citation that redacts all non-public information is public;
- (4)(J) judgment information statement;
- (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- (4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;
- (4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information;
- (4)(N) medical, psychiatric, or psychological records;
- (4)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:
- (4)(O)(i) name change of a minor;
- (4)(O)(ii) guardianship or conservatorship for a minor;
- (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party [\[KW1\]](#);
- (4)(O)(iv) protective orders and stalking injunctions; and
- (4)(O)(v) custody orders and decrees;
- (4)(P) nonresident violator notice of noncompliance;

(4)(Q) personnel file of a current or former court personnel or applicant for employment;

(4)(R) photograph, film, or video of a crime victim;

(4)(S) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:

(4)(S)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(S)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(T) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

(4)(U) record submitted for in camera review until its public availability is determined;

(4)(V) reports of investigations by Child Protective Services;

(4)(W) statement in support of petition to determine competency^[KW2];

(4)(X) victim impact statements;

(4)(Y) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;

(4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;

(4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure; and

(4)(BB) other records as ordered by the court under Rule 4-202.04.

(5) Protected Court Records. The following court records are protected:

(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;

(5)(B) records that are subject to the attorney client privilege;

(5)(C) bids or proposals until the deadline for submitting them has closed;

(5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;

(5)(F) court security plans;

(5)(G) investigation and analysis of loss covered by the risk management fund;

(5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;

(5)(I) confidential business records under Utah Code Section 63G-2-309;

(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:

(5)(J)(i) interfere with an investigation;

(5)(J)(ii) interfere with a fair hearing or trial;

(5)(J)(iii) disclose the identity of a confidential source; or

(5)(J)(iv) concern the security of a court facility;

(5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;

(5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;

(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;

(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;

(5)(O) record the disclosure of which would jeopardize life, safety, or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report;

(5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and

(5)(V) other records as ordered by the court under Rule 4-202.04.

(6) Juvenile Court Social Records. The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

(6)(C) medical, psychological, psychiatric evaluations;

(6)(D) pre-disposition and social summary reports;

(6)(E) probation agency and institutional reports or evaluations;

(6)(F) referral reports;

(6)(G) report of preliminary inquiries; and

(6)(H) treatment or service plans.

(7) Juvenile Court Legal Records. The following are juvenile court legal records:

(7)(A) accounting records;

(7)(B) discovery filed with the court;

(7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories

(7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

(8) Safeguarded Court Records. The following court records are safeguarded:

(8)(A) upon request, location information, contact information, and identity information other than name of a petitioner and other persons to be protected in an action filed under [KW3](#) Title 78B, Chapter 7, Protective Orders;

(8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

(8)(C) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;

(8)(D) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;

(8)(E) the following information about a victim or witness of a crime:

(8)(E)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;

(8)(E)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information.

Effective: May 1, 2022

Appendix B. Justice Court Standards for Recertification

Instructions to applicant for recertification

As part of the application process, each entity should carefully review all requirements for the operation of Justice Courts. In order to aid governing bodies in obtaining the necessary information regarding the continuing obligations of an entity with respect to the operations of ~~its Justice the~~ Court, the governing body of each entity must request a written opinion from its attorney advising the entity of all requirements for the operation of a Justice Court, and the feasibility of maintaining a Justice Court. In addition, prior to submission of this application, each entity must duly pass a resolution requesting recertification. The resolution must also affirm that the entity is willing to meet all requirements for the operation of the ~~Justice~~ Court during the period of certification. A copy of the attorney's opinion and the resolution must accompany the application.

A representative of the entity may appear before the ~~Committee~~ Board of Justice Court Judges to present the application and may present any additional information which the applicant desires to present to the ~~Board~~ Committee. In the event that additional information is deemed necessary, the ~~Committee-Board~~ may request such additional information from the applicant.

Certification will ~~certify-authorize~~ the court to process all cases which come within the jurisdiction of the ~~Justice e~~ Court including criminal, civil and small claims cases pursuant to Section 78A-7-106 of the Utah Code.

(1) Statutory Requirements. Statutes of the State of Utah require that certain standards be met in the operation of a Justice Court. These statutory requirements include:

(1)(A) All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (Section 78A-7-213).

(1)(B) Each court shall be ~~opened~~ and judicial business shall be transacted every day as provided by law (Section 78A-7-213), although the judge is not required to be present during all hours that the court is open.

(1)(C) The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (Section 78A-7-213).

(1)(D) The judge and the clerk of the court shall attend the court at regularly scheduled times (Section 78A-7-213).

(1)(E) The entity ~~creating-operating~~ the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (Section 78A-7-206 and Section 78A-7-207~~44~~).

(1)(F) The entity ~~creating-operating~~ a Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial

education and training (Section 78A-7-205).

(1)(G) The entity ~~creating~~ operating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (Section 78A-7-~~103214~~).

(1)(H) The entity ~~creating~~ operating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-~~103209~~).

(1)(I) The entity ~~creating~~ operating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (Section 78A-7-~~103209~~).

(1)(J) The entity ~~creating~~ operating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (Section 78A-7-~~103209~~).

(1)(K) Witnesses and jury fees as required by law shall be paid by the entity which creates the Court (~~Section 10-7-76 and 17-50-319~~).

(1)(L) Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (Section ~~78A-7-120 and 78A-7-121-and-Section 78A-7-119~~).

(1)(M) Every entity ~~creating~~ operating a court shall pay the judge of that court a fixed compensation ~~within the range provided by statute~~ (Section 78A-7-206).

(1)(N) Court shall be held within the jurisdiction of the court, except as provided by law (Section 78A-7-212).

(1)(O) The entity ~~creating~~ operating the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (Section 78A-7-~~103214~~).

(1)(P) All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

~~(1)(Q) An audio recording system shall maintain the verbatim record of all court proceedings. Section 78A-7-103.~~

~~(1)(Q)(i) For Class I and Class II justice courts, the system must:~~

~~(1)(Q)(i)(a) be a stand-alone unit that records and audibly plays back the recording;~~

~~(1)(Q)(i)(b) index, back-up and archive the recording and enable the record to be retrieved.~~

~~(1)(Q)(i)(c) have at least four recording channels;~~

~~(1)(Q)(i)(d) have a one-step "on" and "off" recording function;~~

~~(1)(Q)(i)(e) have conference monitoring of recorded audio;~~

~~(1)(Q)(i)(f) have external record archiving from the unit with local access;~~

~~(1)(Q)(i)(g) be capable of being integrated with the courts public address system; and (1)(Q)(ii) For Class III and Class IV justice courts, the system must, at a minimum:~~

~~(1)(Q)(ii)(a) be a stand-alone unit that records and audibly plays back the recording;~~

~~(1)(Q)(ii)(b) index, back-up and archive the recording and enable the record to be retrieved; and~~

~~(1)(Q)(ii)(c) have at least two recording channels.~~

~~(1)(Q)(iii) The Board of Justice Court Judges may create a list of products that meet these criteria.~~

(2) Judicial Council Minimum Requirements. In addition to those requirements which are directly imposed by statute, ~~Section 78A-7-103 directs~~ the Judicial Council has established additional to promulgate minimum requirements for the creation and certification of Justice Courts, as follows. Pursuant to statute, ~~the Judicial Council has adopted the following minimum requirements:~~

(2)(A) ~~That the Court be opened~~ A clerk shall be available for at least one hour each day that the court is required to be open- and during court hearings, as required by the judges as provided by law (Section 78A-7-213). These hours shall be posted on the court's website.

(2)(B) ~~That the judge~~ shall be available to ~~attend court and~~ conduct court business as needed, performing all duties required and exercising ultimate responsibility for the administration of justice as an independent branch of government.

(2)(C) All court hearings shall be conducted in a designated courtroom, including remote transmission, as permitted by the Judicial Council, or in another location authorized by the Presiding Judge.

(2)(~~DC~~) ~~That~~ the minimum furnishings for a courtroom shall include: a desk and chair for the judge (on a ~~six-inch~~ at least six inches above the well), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public, as well as a- ~~(A suggested courtroom configuration is attached).~~

(2)(D) A judicial robe, a gavel, ~~current fine schedules, a copy of the Code of Judicial Administration,~~ and necessary forms and supplies.

(2)(E) Office space for the judge and clerk shall be appropriate (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box for each clerk performing cashiering duties, a ~~typewriter or computer with~~ word processing ~~software~~, and access to a scanner and copy machine.

~~(2)(F) A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.~~

(2)(F) The court shall provide interpreters as required by Rule 3-306.04 of the Code of Judicial Administration.

(2)(G) The entity ~~must~~ shall have at least one peace officer (which may be contracted).

(2)(H) A court security plan ~~must~~ shall be submitted ~~and approved consistent with C.J.A. as required by~~ Rule 3-414 of the Code of Judicial Administration.

(2)(I) Each court ~~must~~ shall have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety.

(2)(J) Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in ~~number 9-~~ Section (2)(I) above.

(2)(K) Clerks' education hours shall be reported to the AOC on an annual basis.

(2)(L) The appointment of the clerk(s) assigned to serve the court shall be subject to the judge's approval, who may participate in the interview and personnel evaluation process for the clerk(s) at his or her discretion.

(2)(M) Court staff shall be certified as contemplated by Rule 3-303 of the Code of Judicial Administration.

(2)(N) Any interlocal agreement relating to court operations, as amended to date, shall be provided to the Justice Court Administrator.

(2)(O) The court shall accept credit and debit cards through a system that integrates with CORIS.

(2)(P) The court shall have access to UCJIS.

(2)(Q) An audio recording system shall maintain a digital recording of all court proceedings (Section 78A-7-103).

(2)(Q)(i) For Class I and Class II justice courts, the system must:

(2)(Q)(i)(a) be a stand-alone unit that records and audibly plays back the recording;

(2)(Q)(i)(b) index, back-up and archive the recording and enable the record to be retrieved.

(2)(Q)(i)(c) have at least four recording channels;

(2)(Q)(i)(d) have a one-step "on" and "off" recording function;

(2)(Q)(i)(e) have conference monitoring of recorded audio;

(2)(Q)(i)(f) have external record archiving from the unit with local access;

(2)(Q)(i)(g) be capable of being integrated with the court's public address system; and

(2)(Q)(ii) For Class III and Class IV justice courts, the system must, at a minimum:

(2)(Q)(ii)(a) be a stand-alone unit that records and audibly plays back the recording;

(2)(Q)(ii)(b) index, back-up and archive the recording and enable the record to be retrieved; and

(2)(Q)(ii)(c) have at least two recording channels.

(2)(Q)(iii) The Board of Justice Court Judges may create a list of products that meet these criteria.

(3) Classification of Courts Based on Case Filings. In establishing minimum requirements, the Judicial Council has determined that Justice Courts with higher case filings require greater support services. To accommodate the great differences in judicial activity between Justice Courts within the state, the Council has divided courts into four classes based upon the average monthly cases filed in that court. Minimum standards have been set for each classification.

(3)(A) Class IV Courts. Courts which have an average of less than 61 cases filed each month are classified as Class IV Courts. The minimum requirements for a Class IV Court ~~are stated above. (These requirements are also attached as Class IV-~~

~~minimum requirements). These requirements~~ include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as "base requirements."

(3)(B) **Class III Courts.** Courts which have an average of more than 60 but less than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week ~~(see attached Class III minimum requirements)~~, and court must be scheduled at least twice per month every other week.

(3)(C) **Class II Courts.** Courts which have an average of more than 200 but less than 501 cases filed each month are classified as Class II Courts. In addition to the base requirements, Class II Courts are required to be open additional hours ~~(see attached Class II minimum requirements)~~, the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his own use, clerical space may not be shared, at least one full-time clerk must be provided ~~(see attached Class II minimum requirements)~~, and the courtroom, judge's chamber and clerk's office must be in the same building.

(3)(D) **Class I Courts.** Courts which have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three full-time clerks, at least one of whom is available it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and the judge's chambers and clerk's office cannot be shared by another entity.

(4) Waivers. The State Legislature has provided that any Justice Court which continues to meet the minimum requirements for its class is entitled to be recertified. However, the Judicial Council also has authority to waive any minimum requirement which has not been specifically imposed by the Legislature (i.e. requirements ~~(1)(A) -- (1)(Q)~~ above, ~~which have been adopted by the Judicial Council pursuant to Section 78A-7-103~~). Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified and, the fact that a waiver has been previously granted, will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court, the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions. In order to adequately function, it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time. Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas;

and in such circumstances a waiver may be requested.

(5) Extensions. The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the entity from meeting a minimum requirement. An extension will be for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, or obtain a waiver as provided above.

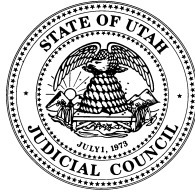
(6) Judge Certificate. Applications for existing courts for recertification shall be accompanied by a certificate of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met during the prior year. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held, and that the operational standards for the court have been met during the prior year.

(7) Justice Court Standards Committee. Upon submission of an application, the Board of Justice Court Judges Standards Committee will conduct an appropriate independent investigation and notify the entity of its initial recommendations, whether in favor or against certification. If the Committee Board intends to recommend against certification, it shall specify the minimum requirements which have not been met. The entity may then present additional information to the Committee Board, request an extension, or request a waiver. After making an appropriate investigation based upon any additional information or request made by the entity, the Committee Board will then submit its recommendations to the Judicial Council. The recommendations shall specify whether or not a waiver or extension should be granted, if either has been requested. If the recommendation is against recertification, or against waiver, or against extension, the entity may request that it be allowed to make an appearance before the Judicial Council. Any request to appear before the Judicial Council must be filed within 15 days of notification of the Committee's Board's recommendations.

If you have any questions concerning this application, please contact James Peters, Justice Court Administrator, by calling counsel to the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241, telephone: (801) 578-3824 or emailing jamesp@utcourts.gov.

Effective: ~~May 18~~ November 1, 2022

Tab 11



Administrative Office of the Courts

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

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee

FROM: Jim Peters
Justice Court Administrator

DATE: July 28, 2022

RE: New Justice Court Judges for the Uniform Fine Committee

Rule 1-205(1)(B)(ii)(c) of the Code of Judicial Administration calls for four justice court judges to serve on the Uniform Fine Committee. For a variety of reasons, all four positions need to be filled. Judge Jon Carpenter will complete his first term in August 2022, Judge Brian Brower needs to be replaced because he is now on the Judicial Council, and Judge Mike Junk needs to step down for other reasons. The fourth position has been vacant for some time.

Judge Carpenter is willing to serve another term. To fill the other three positions, the Board of Justice Court Judges is recommending that Judge Brendan McCullagh of the Third District, Judge Ryan Richards of the Third District, and Judge Barbara Finlinson of the Fourth District be appointed. Thank you for your consideration.