

# JUDICIAL COUNCIL MEETING

## AGENDA

**January 17, 2023**

**Meeting held through Webex**

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

1. 9:00 a.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report ..... Chief Justice Matthew B. Durrant  
(Information)
3. 9:10 a.m. State Court Administrator's Report.....Ron Gordon  
(Information)
4. 9:15 a.m. Reports: Management Committee ..... Chief Justice Matthew B. Durrant  
Budget and Fiscal Management Committee ..... Judge Kara Pettit  
Liaison Committee..... Justice Paige Petersen  
Policy, Planning, and Technology Committee ..... Judge Samuel Chiara  
Bar Commission.....Margaret Plane, esq.  
(Tab 2 - Information)
5. 9:25 a.m. Judicial Performance Evaluation Commission Report ..... Dr. Jennifer Yim  
(Tab 3 - Information)
6. 9:45 a.m. Budget and Grants..... Karl Sweeney  
(Action) Alisha Johnson  
Jordan Murray
7. 10:00 a.m. Problem Solving Courts Recertifications..... Judge Dennis Fuchs  
(Tab 4 - Action)
8. 10:10 a.m. Legislative Updates..... Michael Drechsel  
(Information)
- 10:20 a.m. Break
9. 10:30 a.m. Justice Court Reform ..... Judge Paul Farr  
(Information) Jim Peters  
Ron Gordon

10. 10:35 a.m. Justice Courts Recertifications.....Jim Peters  
(Tab 5 - Action)
11. 10:45 a.m. Justice Court Judge Certification .....Jim Peters  
(Action)
12. 10:50 a.m. Rules for Final Approval .....Keisa Williams  
(Tab 6 - Action)
13. 11:00 a.m. Old Business/New Business ..... All  
(Discussion)
14. 11:10 a.m. Executive Session
15. 11:10 a.m. Adjourn

*The State of the Judiciary provided by Chief Justice Durrant will be held at 2:00 p.m. in the House Chamber.*

### **Consent Calendar**

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

1. Committee Appointments      Court Facility Planning Committee – Chris Talbot  
(Tab 7)      Forms Committee – Nathanael Player
2. Rules for Public Comment      Keisa Williams  
(Tab 8)

# Tab 1

Agenda

**JUDICIAL COUNCIL MEETING  
Minutes**

**December 19, 2022**

**Meeting held through Webex  
and In-person**

**Matheson Courthouse  
Council Room  
450 S. State St.  
Salt Lake City, Utah 84111**

**9:00 a.m. – 11:51 a.m.**

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

**Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. David Mortensen, Vice Chair  
Hon. Suchada Bazzelle  
Hon. Brian Brower  
Hon. Samuel Chiara  
Hon. Augustus Chin  
Hon. David Connors  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. James Gardner  
Hon. Elizabeth Lindsley  
Hon. Thomas Low  
Justice Paige Petersen  
Hon. Kara Pettit  
Margaret Plane, esq.

**Excused:**

Hon. Keith Barnes  
Sonia Sweeney

**Guests:**

Hon. Kate Appleby, Senior Judge  
Emily Ashcraft, Deseret News  
Hon. James Blanch, Third District Court

**AOC Staff:**

Ron Gordon  
Neira Siaperas  
Michael Drechsel  
Shane Bahr  
Paul Barron  
Alisha Johnson  
Heather Marshall  
Bart Olsen  
Jim Peters  
Jon Puente  
Nick Stiles  
Karl Sweeney  
Melissa Taitano  
Keisa Williams  
Jeni Wood

**Guests Cont.:**

Joy Lyngar, National Judicial College  
Don Judges, Water Law Judge Curriculum  
John Lund, Office of Innovation  
Eric Morgan  
Alex Peterson, Judicial Conduct Commission  
Melinda Thorpe, Water Law Judge Curriculum  
Mark Urry, TCE Fourth District Court

**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 November 21, 2022 Judicial Council meeting minutes, as amended to correct wording in section 8 and to correct a sentence in section 10 to “Justice Paige Petersen said that on appeal, it needs to be clear what documents are sealed.” Judge Augustus Chin seconded the motion, and it passed unanimously.

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

Chief Justice Durrant, Ron Gordon, and Michael Drechsel discussed the Courts budget requests with Speaker of the House, Brad Wilson and Senate President, Stuart Adams. They may consider increasing the judicial salary increase recommendation from 10% to 15% (COLA is included). There continue to be discussions about possibly adjusting the judicial selection process, such as eliminating the 50/50 allocation between parties to move away from a bipartisanship. Justice Petersen thought that, if they do make the change, it might make the nominating commission imbalanced as to partisanship. She wondered how will the constitution be protected.

**3. STATE COURT ADMINISTRATOR’S REPORT: (Ron Gordon)**

Mr. Gordon explained that the Governor’s budget is a series of recommendations to the Legislature that establishes very clear parameters for what the executive branch can advocate for. The Governor’s budget includes the Courts legislative budget requests, with the exception of the judicial compensation request. Mr. Gordon felt the judicial compensation discussion with legislative leadership was encouraging. The Governor’s budget includes a COLA for all state employees and discretionary funding. If discretionary funding is allocated, salary increases for court positions that require Juris Doctorate degrees could be funded from the discretionary funds.

Tucker Samuelson, the new Director of Data and Research, will start in January. Mr. Gordon announced that the January Council meeting will be held fully virtual due to construction. If Council members want to attend the State of the Judiciary following the Council meeting, they will need to use their own transportation.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Budget & Fiscal Management Committee Report:**

Judge Kara Pettit noted the work will be discussed later in the meeting.

**Liaison Committee Report:**

Justice Paige Petersen had nothing new to report.

**Policy, Planning, and Technology Committee Report:**

Judge Samuel Chiara mentioned that the Committee is clarifying and making e-filing rules more uniform.

### **Bar Commission Report:**

Margaret Plane said the filing deadline for the Bar President position is January 2. The Bar's 2023 Spring Convention will be held in St. George. The Office of Innovation survey just closed with more than 2,000 responses. The results will be addressed at the January Bar meeting and uploaded to the Bar website. The Bar Commission and survey consultant created the questions.

### **5. JUDICIAL CONDUCT COMMISSION (JCC) REPORT: (Alex Peterson)**

Chief Justice Durrant welcomed Alex Peterson. Mr. Peterson reviewed the JCC's current membership, including Judge Todd Shaughnessy as a representative of the Courts.

#### **JCC caseload update and analysis**

- There are 62 cases in FY 2023 (85 in FY 2022, 80 in FY 2021, 51 in FY 2020, 64 in FY 2019, 58 in FY 2018).
- To date in FY 2023, they have had no public dispositions (in FY 2022, they had 1 Dismissal with Warning). They have three cases before the Utah Supreme Court.

#### **Activities of JCC over the last six months**

- JCC continues to meet in person.
- Their electronic complaint form submission was initiated in January, 2022 with 139 submissions to date.

Mr. Peterson is conducting a one-year assessment of the online complaint form, which has shown the JCC is more readily available to the public. The assessment will consider if being more available to the public has resulted in more actionable complaints. The commissioners will then decide if they want to keep the online portal available to the public.

#### **Complaint resolution process**

1. Initial screening – JCC reviews each complaint to determine whether it is within their jurisdiction.
2. Preliminary Investigation – JCC investigator conducts a preliminary investigation, prepares a report, then submits their recommendation.
3. Full Investigation – JCC staff provides the judge (subject of the investigation) with the complaint and requests a response.
4. Formal Proceedings – Judge will receive a formal complaint, via certified mail and may respond. Dismissal, stipulated resolution or confidential hearing may resolve the matter.
5. Supreme Court – JCC files their findings of fact and recommendation to the Supreme Court. The Supreme Court may implement the recommendations, modify them or reject them.

Chief Justice Durrant thanked Mr. Peterson.

### **6. OFFICE OF LEGAL SERVICES INNOVATION (OFFICE) UPDATE: (John Lund)**

Chief Justice Durrant welcomed John Lund. Mr. Lund stated the Office has provided approximately 35,000 services since its inception, including government benefits, veteran's

benefits, immigration, small business, and end-of-life planning. They have received nearly 100 applications from Bar members seeking to provide services under the Office. Once the work of the data collection contractors is complete, the Office will need two FTEs, a program director and a data person. They are in line to complete FY 2023 with the current funds allocated, including the Council-approved ARPA funds and grant funds.

Judge Connors asked if the Office reached their objectives and have their data shown that they are providing more access to justice. Mr. Lund said the Office is working with the Utah State University to improve the work and noted that there is now sufficient data for research. They are also working on a questionnaire for those who have received services through the Office. The Office's participants are using their own capital, such as software or websites. Chief Justice Durrant felt some changes are going to happen by virtue of the market and the goal is to ensure regulation over the practice of law.

Chief Justice Durrant thanked Mr. Lund.

## **7. OFFICE OF FAIRNESS AND ACCOUNTABILITY (OFA) REPORT: (Jon Puente)**

Chief Justice Durrant welcomed Jon Puente.

### **Summary of the projects launched or accomplished in 2022**

- They established the Racial and Ethnic Disparities Data Workgroup (RED Workgroup) to identify touchpoints which may trigger racial and ethnic disproportions in criminal proceedings. The Workgroup's findings will be provided to the Council to address and remedy disparities it may find.
- They established Employee Resource Groups (ERGs), which are employee-run affinity groups that provide leadership opportunities and professional development. Currently there are three active ERGs: The Women Employee Resource Circle, LGBTQIA+ Resource and Inclusion Group, and the Court Employees of Color.
- The OFA amplified the Court's public outreach efforts by organizing over 50 school visits by judicial officers, tabling at community outreach events, attending community-based organization meetings, conducting community presentation and workshops, and organizing the Constitution Day. These efforts have been crucial in the Court's efforts in building trust and confidence with the public.
- The OFA launched the Judicial Inclusion Mentorship Program, which matches law school students from historically underrepresented backgrounds with a member of Utah's Judiciary. The purpose of this program is to expose the students to a possible career on the bench. In its inaugural semester, the program had 27 students participate from both Utah law schools.
- In partnership with the State Bar, both Utah law schools and other stakeholders, the OFA began the Common Thread Program. Common Thread is proto-pipeline to diversify the Bar and the bench. Common Thread's first meeting was attended by over 80 law school students and close to 10 judicial officers.
- The OFA along with the Access to Justice Commission started the Court Connect Program. This is an outreach program in which they hold meetings with diverse communities outside of the Wasatch Front. The purpose of this program is to build trust

in confidence in the courts, introduce communities to court staff and remove apprehensions the communities have with the courts.

- The Language Access Program is being updated to expand the interpreter roster, recruit and certify interpreters, modernize scheduling methods, and engage with current interpreters.
- The OFA started working on the Court's Strategic Plan. The goal of this plan is to institutionalize inclusion principles in all parts of the Judiciary. As part of this process, the OFA held over 10 focus groups with stakeholders this year. The target date for completion of the plan is late summer/early fall of 2023.
- The OFA launched the Community Court Program to provide court services in local community centers for cases such as divorces, custody, paternity, child support, temporary separation, and enforcement of family law orders.

Mr. Puente said they are working to engage junior high school students in hopes that they consider a legal profession. They also held a Constitution Day with local tribes, which went very well.

Chief Justice Durrant thanked Mr. Puente for his well-written report.

#### **8. RULES FOR FINAL APPROVAL: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams. The Policy, Planning, and Technology Committee recommended that the following rules be approved on an expedited basis with a December 19, 2022 effective date, followed by a 45-day public comment period.

**UCJA Rule 4-503. Mandatory electronic filing** (civil and probate)

**UCJA Rule 4-603. Mandatory electronic filing** (criminal/district court)

**UCJA Rule 4-801. Filing small claims cases**

**UCJA Rule 4-901. Mandatory electronic filing in juvenile court**

**UCJA Rule 9-302. Mandatory electronic filing** (criminal/justice court)

**Motion:** Judge Connors moved to approve UCJA Rules 4-503, 4-603, 4-801, 4-901, and 9-302, with an effective date of December 19, 2022, followed by a 45-day public comment period. Judge Pettit seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Williams.

#### **9. BUDGET AND GRANTS: (Karl Sweeney and Alisha Johnson)**

Chief Justice Durrant welcomed Karl Sweeney and Alisha Johnson. Ms. Johnson said the Courts continue to increase their turnover savings. Mr. Gordon announced that the Third District Court reached an all-time low for vacant judicial assistant positions with only 4 vacancies; however, that amount has increased to 9. Shane Bahr mentioned that historically there are 11 judicial assistant vacancies at any given time in the Third District Court.



### FY 2023 Ongoing Turnover Savings

#		Funding Type	Actual	Forecasted
			Amount YTD	Amount @ YE
1	Carried over Ongoing Savings (from FY 2022, includes unallocated ongoing appropriation)	Internal Savings	250,392	250,392
2	Ongoing Turnover Savings FY 2023	Internal Savings	284,168	634,168
3	TOTAL SAVINGS		534,559	884,559
	2023 Hot Spot Raises		(109,683)	(200,000)
	2023 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	(450,000)
4	TOTAL USES before YE Requests		(109,683)	(650,000)
Actual Turnover Savings for FY 2023 as of 11/28/2022			\$ 424,877	\$ 234,559

### FY 2023 One-Time Turnover Savings

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 11/11/2022)	Internal Savings	1,413,679
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 11/11/2022)	Reimbursements	343,532
3	Est. One Time Savings for 1,320 remaining pay hours (\$1,750 / pay hour)	Internal Savings (Est.)	2,310,000
Total Potential One Time Savings			4,067,211

### ARPA Expenses

					A	B	C	A - B - C
					Judicial Council	Actual FY	Actual FY	
					2022	2022	2023	
					Approved	Expended	Expended	Balance
#		Funded by	GOPB	Requested	Amount	Amount	Amount	Available
1	IT Access to Justice - Response to COVID - Part I	May-21	Yes	11,000,000	11,000,000	3,042,468	1,963,370	5,994,162
2	Courts Case Backlog - Part I*	May-21	Yes	1,000,000	1,000,000	707,963	292,037	-
	Subtotal			12,000,000	12,000,000	3,750,431	2,255,407	5,994,162
	Requests to Legislature for FY 2023 - \$3,000,000 approved by the Legislature			Requested	Approved	Actual 2022	Actual 2023	Available
1	IT Access to Justice - Response to COVID - Part II	2022 GS	Yes	1,373,400	1,373,400	-	-	1,373,400
2	Courts Case Backlog - Part II	2022 GS	Yes	1,000,000	1,000,000	-	75,376	924,624
3	COVID-19 Supplies	2022 GS	Yes	640,000	302,100	-	-	302,100
4	Legal Sandbox Response to COVID	2022 GS	Yes	649,000	324,500	-	-	324,500
5	Self-Help Center	2022 GS	Yes	64,000	-	-	-	-
6	Interpreter Equipment	2022 GS	Yes	97,000	-	-	-	-
7	Eviction Court	2022 GS	Yes	166,000	-	-	-	-
8	Public Outreach & Engagement	2022 GS	Yes	30,000	-	-	-	-
9	IT Access to Justice - Response to COVID - Part III	2022 GS	Yes	1,881,500	-	-	-	-
	Subtotal			5,900,900	3,000,000	-	75,376	2,924,624
				\$ 17,900,900	\$ 15,000,000	\$ 3,750,431	\$ 2,330,783	\$ 8,918,786

### Backlog Details – Data using list of employees provided by TCEs

#### FY 2022 Expenses

Personnel Expenses	\$680,101
Mileage Expenses	\$2,475
Senior Judge Travel Expenses	\$2,203
COVID Testing Kit purchase	\$23,185
<b>Total</b>	<b>\$707,963</b>

#### FY 2023 Expenses

Personnel Expenses	\$343,532
Mileage Expenses	\$1,199
Senior Judge Travel Expenses	\$385
COVID Testing Kit purchase	\$22,297
<b>Total</b>	<b>\$367,413</b>

### **Develop Online Water Law Curriculum for Judges – Phase 1**

\$40,000 one-time funds

A formal water law online curriculum is needed for Water Law Judges. For the past year, the AOC has been in discussion with Southern Utah University (SUU) and Judge Kate Appleby on ways to create a curriculum. These funds will begin the water law curriculum development. The co-presenters and representatives from the National Judicial College would form the core group to bring phase 1 of this curriculum to life. The members from SUU have offered to match in-kind funds to assist with building this program. Mr. Gordon informed the Council that the program will be shared with potential stakeholders. Judge Pettit said the Budget and Fiscal Management Committee recommended the Council approve this request. She asked what the cost would be to judges. Judge Appleby said judges will be able to access the phase 1 of the curriculum at no cost. Even if the Courts are not able to continue building additional phases of the program as they hope, this first phase will continue to be available to everyone.

Mr. Gordon thanked Judge Appleby for her work and noted she is recognized nationally as a water law expert.

### **Transcription Training Production**

\$900 one-time funds

This request is to fund the development of a court transcriber training module to increase recruitment and retention of court transcribers.

**Motion:** Judge Connors moved to approve the Develop Online Water Law Curriculum for Judges budget request of \$40,000 in one-time funds and the Transcription Training Production budget request of \$900 in one-time funds. Judge Chin seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Mr. Sweeney and Ms. Johnson.

### **10. JUSTICE COURT REFORM: (Judge Paul Farr, Jim Peters, and Ron Gordon)**

Chief Justice Durrant welcomed Judge Paul Farr, Jim Peters, and Ron Gordon. Judge Farr, Mr. Peters, and Mr. Drechsel met with legislators who stated they will run a bill of the phase I items that the Council discussed: Enact statute clarifying that all courts are part of the Judiciary; Set fixed judicial salaries, which would have local financial impacts; Eliminate Accounting Model 2; Eliminate geographic restrictions for justice court judge applicants; and Require all new justice court judges to have law degrees, allowing current justice court judges without law degrees to be grandfathered in.

Legislators felt comfortable with the geographic restriction and the law degree portion but requested additional information regarding the salary structure and the statute clarifying that justice courts are part of the Judiciary. The salary request may be presented in a way that it is increased incrementally over a number of years. Judge Farr explained that a fulltime justice court judge will be paid at 90% of a district court judge and a part time justice court judge will be paid at a prorated amount based on their caseload.

Chief Justice Durrant thanked Judge Farr, Mr. Peters, and Mr. Gordon.

**11. DISSOLUTION OF THE BIG WATER JUSTICE COURT: (Jim Peters)**

Chief Justice Durrant welcomed Jim Peters. Pursuant to Utah Code § 78A-7-123(2) Dissolution of Justice Courts, Mr. Peters provided notice that it is the intent of the Town of Big Water to dissolve its Justice Court. On November 16, 2022 the Big Water Town Council unanimously adopted this action through Resolution No. 2022-15. Section 3 of the statute allows for the minimum 1 year dissolution timeframe to be shortened upon request. The Town of Big Water requested the dissolution timeframe be shortened to take effect December 31, 2022 or as soon thereafter as the Council allows because the current Big Water City Justice Court sitting judge will retire at the end of the year. They have had issues trying to find a judge to assist the justice court after the sitting judge retires.

The Kane County Justice Court, which is one hour away from the courthouse, has agreed to take the cases. The caseload was 752 cases total over the past 5 years, which amounts to fewer than 2 criminal cases a month and fewer than 1 traffic court case per month. In 2021, there were 443 residents of Big Water.

**Motion:** Judge Chin moved to approve the dissolution of the Big Water Justice Court, effective December 31, 2022. Judge Farr seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Mr. Peters.

**12. MODEL UTAH CRIMINAL JURY INSTRUCTIONS COMMITTEE REPORT: (Judge James Blanch and Michael Drechsel)**

Chief Justice Durrant welcomed Judge James Blanch and Michael Drechsel. During 2022, the Committee met nine times and primarily focused on instructions related to mitigation defenses and jury unanimity issues. In addition, as a result of the Legislature the Committee clarified certain statutory provisions related to special mitigation for aggravated murder and murder offenses during the 2022 General Session. The Committee adjusted existing instructions CR1402B, CR1403B, and CR1411B and special verdict forms to conform to the Utah Code. Judge Blanch thanked Mr. Drechsel for his work on the Committee.

**New Instructions and Special Verdict Forms**

CR430 Jury Unanimity – Single Offense in More Than One Way  
 CR431 Jury Unanimity – Multiple Offenses with Identical Elements  
 CR432 Jury Unanimity – Evidence of More Occurrences than Charges  
 CR440 Entrapment

**Revised Instructions and Special Verdict Forms**

CR216 Jury Unanimity and Deliberations  
 CR218 Deadlocked Juries (*amended committee note and references*)  
 CR219 Special Verdict Form (*amended committee note and references*)  
 CR505A Roadmap for Mitigation Defenses  
 CR570 Elements with Mitigation  
 CR571 Definitions Applicable to Battered Person Mitigation Defense

CR572 Battered Person Mitigation – Elements and Burden of Proof  
 CR573 Special Verdict Form – Battered Person Mitigation  
 SVF570 Special Verdict Form – Battered Person Mitigation Defense  
 CR1402B Aggravated Murder Elements – Utah Code § 76-5-202(2)(a) – With Mitigation Defenses  
 CR1403B Aggravated Murder Elements – Utah Code § 76-5-202(2)(b) – With Mitigation Defenses  
 CR1411B Murder – With Mitigation Defenses

Judge Blanch mentioned that the Committee has not addressed implicit bias instructions but he has spoken with the MUJI-Civil Committee about their instructions. There are criminal jury instructions that include language to the jurors that they have to base their verdict on the evidence and that they cannot let bias, prejudice, or sympathy affect their decision. He believed these instructions properly convey the message. Judge Pettit spoke with the Chair of the Civil Committee who made it clear that their approach is avoiding bias rather than an implicit bias instruction. Judge Blanch noted that criminal cases have constitutional issues that are not found in civil cases.

Chief Justice Durrant thanked Judge Blanch and Mr. Drechsel.

**13. SENIOR JUDGE CERTIFICATION: (Neira Siaperas)**

Chief Justice Durrant welcomed Neira Siaperas. Ms. Siaperas requested the Council discuss this item in an executive session.

Chief Justice Durrant thanked Ms. Siaperas.

**14. BACKLOG MEASUREMENT AND REPORTING: (Paul Barron and Heather Marshall)**

Chief Justice Durrant welcomed Paul Barron and Heather Marshall. Mr. Barron explained that the National Center for State Courts (NCSC) defines backlog as any unresolved case that has exceeded the expected time goal. The NCSC points to the clearance rates as the way to measure progress in reducing backlog. Clearance rates are disposed cases divided by case filings. Clearance rates above 100% show more cases are being disposed than are being filed. Clearance rates below 100% show fewer cases are being disposed than are being filed. The monthly time goals for the district courts were set by case type in 2013. The measure is for 95% of cases to meet the time goal. Ms. Marshall explained that the district courts had 12,849 backlog cases in the first quarter of FY 2022. A year later, those cases have declined to 12,223. The backlog of criminal cases multiplied six times post-pandemic and the backlog of civil cases multiplied two times post-pandemic. The overall cases pending have increased, including the backlog of cases. Judge Samuel Chiara recognized that there are more cases pending but noted it's not known how many cases were settled within the clearance rate goal.

Mr. Barron recommended working directly with the Boards to identify what will work best for them in terms of the timing and distribution of their backlog metrics. He said the measurements would not be reduced to an individual judge; rather, it would be a measure per district. Mr. Bahr said the Board wants to address clearance rates as one of their goals and focus

on the data as case backlog rather than a court backlog because there are a lot of elements that are outside of the Courts' control. Judge Pettit preferred to have the Boards input and to understand the data better.

Judge Farr thought this was valuable data that should be discussed and published. Judge Brian Brower was uneasy with the term "performance measure" and wondered if it could be rephrased as an "evaluation tool" because some of the delays were out of a judge's control. Mr. Drechsel thought it would be helpful to the Council to know that there are performance measures webpages on the Court's website. ([Performance Measures](#), [Case Stats - Current](#), [Case Stats - Historical](#)) The websites do not include when the changes occur and whether the Courts are making progress.

Mr. Barron sought to have the Council's approval for the backlog metric as a performance measure and approval for displaying performance measures over time. Mr. Barron said the goal would be to publish this to the Courts' website and in the Annual Report. Justice Petersen wanted to know if there was data that could identify what were the causes for backlog cases. Mr. Barron said the pandemic clearly shows a reasoning for the backlog cases. Ms. Marshall offered to measure things like senior judge usage on the backlog of cases. Judge Elizabeth Lindsley remembered when the Board of Juvenile Court Judges recognized that some things are not in a judge's control and wondered if there were other factors that should be considered. Judge Farr wondered if there should be more discussions and detail provided before the Council considers this for public publishing.

Mr. Drechsel said the Courts have a responsibility to publish the data and allow a more full understanding on how to improve the system. Without a clear visual of case timeframes, it would be difficult for judges and attorneys to identify ways to improve. Judge Gardner didn't have a problem with publishing the data but wanted to have a better understanding of it first.

Chief Justice Durrant wondered if the data could identify subjects that were beyond a judge's control.

**Motion:** Judge Farr moved to approve utilizing the metric and publish it, as amended to replace the phrase "performance measure" with "statistical measure" or "backlog measure." Judge Farr amended his motion to include that the report be published quarterly, including historical data. Judge Chiara seconded the motion, and it passed unanimously.

Mr. Drechsel asked for clarification on the request to publish data over time without identifying them as performance measures. Judge Gardner preferred to have the historical data published.

Chief Justice Durrant thanked Mr. Barron and Ms. Marshall.

## **15. OLD BUSINESS/NEW BUSINESS: (All)**

Judge Mortensen thought Council members should be afforded two nights for the March Council meeting to attend the Bar's Spring Convention. He noted the intent of the Council holding their meeting in St. George was in conjunction with the Bar Convention, however, many

Council members do not attend the Convention and some even fly down and back the same day as the Council meeting. He suggested having the Bar present to the Council on other months than in March if that was the sole purpose of the Council holding their meeting in St. George. However, if the intent was to have Council members attend the Convention, then the Council should be afforded additional travel accommodations and Council members should be strongly encouraged to attend the Convention. Chief Justice Durrant agreed that if the Council was going to hold their meeting in St. George then they should support the Bar. The Council members discussed the possibility of changing the Council meeting to Thursday instead of Friday. Judge Low noted judges' calendars are set in advance and it may be difficult to adjust them. Mr. Gordon will review the current contract and follow up with the Council at their next meeting. Chief Justice Durrant conveyed to Ms. Plane that he really appreciated his time at the Fall Convention.

## **16. EXECUTIVE SESSION**

**Motion:** Judge Mortensen moved to go into an executive session for the purpose of discussing the character, competence, or physical or mental health of an individual. Judge Farr seconded the motion, and it passed unanimously.

After an executive session was held the following motion was made.

**Motion:** Judge Farr moved to recommend appointment to the Supreme Court of Judge Jeffrey Wilcox as an Active Senior Judge, Judge Ken Armstrong as an Active Senior Judge, and Judge John Sandberg as an Inactive Senior Judge, after the Council found that all three judges met the qualifications. Judge Gardner seconded the motion, and it passed unanimously.

## **17. CONSENT CALENDAR ITEMS**

- a) Committee Appointment of Jace Willard to the Judicial Outreach Committee. Approved without comment.
- b) Probation Policies. Case and Referral Transfers Policy; Detention Admission and Hearing Policy; and Continuing Jurisdiction and Restitution Policy. Approved with comment.
- c) Water Law Judge Appointment of Judge Blaine Rawson. Approved with comment.
- d) Forms Committee Forms. Three Day Notice to Pay or to Vacate, Defendant's Answer to Unlawful Detainer (Eviction), Request for Hearing After Eviction Because My Rights are Being Violated, Motion for More Time to Answer Eviction Lawsuit, and Order on Motion for More Time to Answer Eviction Lawsuit. All except the Order of Eviction and Notice That You Must Move (Order of Restitution) form were approved with comments below.

Judge Gardner raised the point that the "Order of Eviction and Notice That You Must Move" form no longer complies with the statute. The form now requires a judge to put a date that a tenant must move out. However, the statute requires eviction three days after service but since service is not known at the time a judge signs this form, the judge would not be able to identify a specific date, other than when a tenant appears in court.

**Motion:** Judge Gardner moved to remove the “Order of Eviction and Notice That You Must Move” form from the consent calendar, send the form back to the Forms Committee to add back in the original language without a date. Judge Low offered an alternative that someone is ordered to move out at the later of three days from the date of service or the following date. Judge Pettit seconded the motion, and it passed unanimously.

**18. ADJOURN**

The meeting adjourned.

# Tab 2



## Agenda

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

Webex video conferencing  
December 2, 2022: 9 am

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Samuel Chiara, <i>Chair</i>	•		Paul Barron Keri Sargent
Judge Suchada Bazzelle	•		
Judge Augustus Chin	•		<b>STAFF:</b>
Judge David Connors		•	Keisa Williams Brody Arishita Minhvan Brimhall
Judge James Gardner	•		

#### (1) Welcome and approval of minutes:

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the November 4, 2022 meeting. With no changes, Judge Bazzelle moved to approve the minutes as presented. Judge Gardner seconded the motion. The motion passed unanimously.

#### (2) Email filings by Self-Rep litigants:

- CJA 4-503. Mandatory electronic filing (civil and probate)
- CJA 4-603. Mandatory electronic filing (criminal/district)
- CJA 4-801. Filing small claims cases
- CJA 4-901. Mandatory electronic filing in juvenile court
- CJA 9-302. Mandatory electronic filing (criminal/justice court)

The proposed amendments reflect the Judicial Council's decision to ensure self-represented litigants may continue to file by email until the MyCase system is available. The committee recommended minor, non-substantive changes to the rules. The committee also noted that Licensed Paralegal Practitioners currently do not have the ability to electronically file in juvenile court matters.

***With no further discussion, Judge Gardner moved to approve rules CJA 4-503, 4-603, 4-801, 4-901, and 9-302 as amended with a recommendation to the Judicial Council that they be approved on an expedited basis with a December 17, 2022 effective date, followed by a 45-day comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.***

#### Technology report/proposals:

Brody Arishita is meeting with TCEs and clerks of court to finalize membership of the advisory group. The amendments to rule CJA 1-204 will go into effect on January 1, 2023. The group will discuss various technology needs of the court, including reducing the court's internet bandwidth by prohibiting non-court-related activities and streaming. The group will also look at whether the court should continue using the Google platform for email service.

**Old Business/New Business:** None

Calendar invites for the 2023 PPT meetings will be sent to committee members within the next week. The calendar dates for 2023 dates are listed below.

January 6, 2023

February 3, 2023

March 3, 2023

April 7, 2023

May 5, 2023 (all day)

June 2, 2023

July 7, 2023

August 4, 2023

September 1, 2023

October 6, 2023

November 3, 2023 (all day)

December 1, 2023

**Adjourn:** With no further items for discussion, the meeting adjourned. The next meeting will be held on January 6, 2023 at 12:00 PM via Webex video conferencing, unless otherwise noted.

# Tab 3



INSTITUTE *for the* ADVANCEMENT  
of the AMERICAN LEGAL SYSTEM



UNIVERSITY of  
DENVER

Justice we can believe in

Agenda

# JPE 2.0

## UTAH SURVEY RESULTS

**November 2022**

Submitted by:

**IAALS—Institute for the Advancement of the American Legal System**

John Moye Hall, 2060 South Gaylord Way, Denver, CO 80208

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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a “think tank” that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

Brittany K.T. Kauffman	CEO
Jordan M. Singer	Consultant
Janet Drobinske	Senior Legal Assistant
Logan Cornett	Director of Research
James Swearingen	Research Analyst

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# PROJECT BACKGROUND

Judicial performance evaluation (JPE) processes provide a foundation for states to assess the job performance of judges. JPE programs were first developed in the 1980s and, currently, 16 states, the District of Columbia, and Puerto Rico have implemented official JPE programs. These programs continue to focus on the right goals—evaluating judges for politically neutral qualities like impartiality, transparency, and consistency, along with accountability for job performance rather than the specific decisions the judge has made. However, updating the evaluation approaches used in JPE programs is essential to ensuring that they reflect the experiences of modern court users, the needs of modern judges, and the expectations of modern voters.

Despite their critical importance, JPE programs have suffered from waning enthusiasm in the past decade, with some critics expressing concern about the accuracy and validity of surveys and the lack of overall transparency in the process. Some critics outside the judiciary suggest that JPE programs fail to account for judicial discipline or judicial ideology. Additionally, changes in technology and society have altered the public’s perception of—and relationship with—today’s courts, and JPE programs must adapt. Even longstanding and well-regarded JPE programs need to update their approaches to remain accurate, trusted, and relevant.

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, has launched a project to address these issues, by thinking creatively about how to maintain the core goals of JPE while also being responsive to emerging best practices and legitimate concerns about antiquated techniques.

*JPE 2.0* is a multi-stage effort, including:

- Comprehensive background research on the history of JPE programs, current perspectives, and issues warranting focused consideration
- Work with IAALS’ JPE 2.0 Task Force to get input and expertise from administrators and experts around the country
- JPE Perspectives Survey: We administered a survey to judges in eight states, including Alaska, Colorado, Hawaii, Idaho, Massachusetts, New Mexico, Utah, and Virginia. The purpose of the survey was to gain a deeper understanding of judges’ perspectives on the JPE process in their state, what is working well, and challenges with the program.
- Convening to identify issues and begin to develop recommendations

IAALS anticipates publishing two final reports: one that details the findings from the survey across states and one that outlines recommendations for improving JPE processes nationwide.

This report details the findings of the JPE Perspectives Survey specific to Utah. The sections that follow briefly outline the JPE process in Utah, the methodological approach for the survey, and the survey results.

# UTAH'S JPE PROCESS

JPE programs vary considerably by state, both in purpose and in scope. In Utah, the JPE process aims both to help judges improve their own performance and to inform decisions about the retention of judges. All sitting state court judges participate in the JPE process,<sup>1</sup> which is part of a broader merit selection process. Merit selection in Utah includes five steps:<sup>2</sup>

- When a vacancy occurs, bipartisan nominating commissions—which include both lawyers and people who are not lawyers—review applications, conduct interviews, and assess the qualifications of each candidate. The nominating commission then identifies the five candidates they believe are best qualified (seven for vacancies on the Supreme Court) and sends those names to the governor. The governor interviews each nominee and selects one. The Utah State Senate must approve of the candidate before they take office.<sup>3</sup>
- Midterm evaluations occur in the third year of the term of office for judges (in the third and seventh years of their terms of office). These evaluations are for the purpose of self-improvement for the judges and justices, and are confidential to the JPEC, the evaluated judge, and the presiding judge for that court level.
- Retention evaluations occur in the fifth year of a judge's term of office (in the ninth year for Supreme Court justices) and are the tools for the public to use in deciding whether a judge should be retained for another term. JPEC gathers performance data and prepares a report for each judge.
- JPEC receives retention evaluation results and assesses the results—commissioners may also meet with the judge. Judges are subject to minimum performance standards and, if they receive a passing score on those standards, they earn a presumption that they meet or exceed the minimum expectations.
- Finally, judges who wish to run for retention have their retention evaluation report made public.<sup>4</sup> Voters then decide, based upon those reports and the recommendations of JPEC, whether to retain the judge for another term.

Judges receive one of three evaluation types—basic, mid-level, or full—based on their jurisdiction, weighted caseload, and the number of attorneys who have appeared in front of them over the evaluation period.

At all levels, evaluation includes public comment and a comparison against minimum performance standards related to continuing legal education, case management statistics, and judicial discipline.<sup>5</sup> Mid-level evaluations also include an intercept survey distributed to any individual present in the judge's court.<sup>6</sup> Full evaluations do not include an intercept survey, but include an electronic survey sent to court

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<sup>1</sup> This includes all Supreme Court justices, Utah Court of Appeals judges, district court judges, juvenile court judges, and municipal and county justice court judges. Utah Judicial Performance Evaluation Commission, Evaluation Process, <https://judges.utah.gov/process/> (last visited Oct. 24, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Note that justice court judges in Utah undergo a similar, but somewhat different, merit selection process. *Id.*

<sup>4</sup> Reports for judges who do not wish to run for retention are not made public.

<sup>5</sup> Utah Judicial Performance Evaluation Commission, Basic Evaluation Details, <https://judges.utah.gov/process/basic-evaluation-details/> (last visited Oct. 24, 2022).

<sup>6</sup> Utah Judicial Performance Evaluation Commission, Mid Level Evaluation Details, <https://judges.utah.gov/process/mid-level-evaluation-details/> (last visited Oct. 24, 2022).

staff, jurors, and allied professionals. Additionally, full evaluations include courtroom observations and additional minimum performance standards (legal ability, judicial temperament, administrative performance).<sup>7</sup>

## SURVEY METHODOLOGY

**Instrument Development.** IAALS developed a survey instrument to provide insights into judges' perspectives on JPE. Using open-ended and multiple choice questions, the survey asked judges about their court, the most important characteristics for a judge, their experience with judicial performance evaluation, their opinions on the program and its helpfulness, their concerns about the program, their suggested changes, and their demographic information.

**Participants.** The survey was in the field in Utah in December 2021. The survey was distributed via an emailed anonymous link to 193 judges who participate in Utah's judicial JPE process. In total, we received 95 responses to the survey, for a response rate of 49.2%. Participant demographics are presented in the section that follows.

**Analysis.** We first aggregated and cleaned the results from the multiple choice questions,<sup>8</sup> then ran a series of descriptive analyses on that data specific to Utah responses. For the open-ended questions, we used NVivo—a qualitative data analysis software—to code and identify themes within and between questions. We then ran queries to isolate themes specific to Utah responses.

**Limitations.** As is true of all research, the results presented in this report should be considered in conjunction with the study's limitations. Specifically, it is worth noting that a considerable proportion of judges who received the link declined to respond. Though this does not mean our findings are inaccurate, it may be that some perspectives are not represented. Relatedly, it is not clear the extent to which the demographics of the respondent group correspond to the demographic characteristics of the broader population of Utah state court judges.

## RESULTS

This section summarizes our survey responses and is divided into subsections by question type. The first section details our respondent demographics, including both personal and court-related demographics. The next section details respondents' personal experience with JPE, including the number of evaluations and frequency. This is followed by a look at the top three most important skills, abilities, and qualities our respondents think a judge ought to have. The final two subsections relate to our respondents' opinions and perspectives on the JPE process: one section for multiple choice questions and a final section that

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<sup>7</sup> Utah Judicial Performance Evaluation Commission, Full Evaluation Details, <https://judges.utah.gov/process/full-time-evaluation-details/> (last visited Oct. 24, 2022).

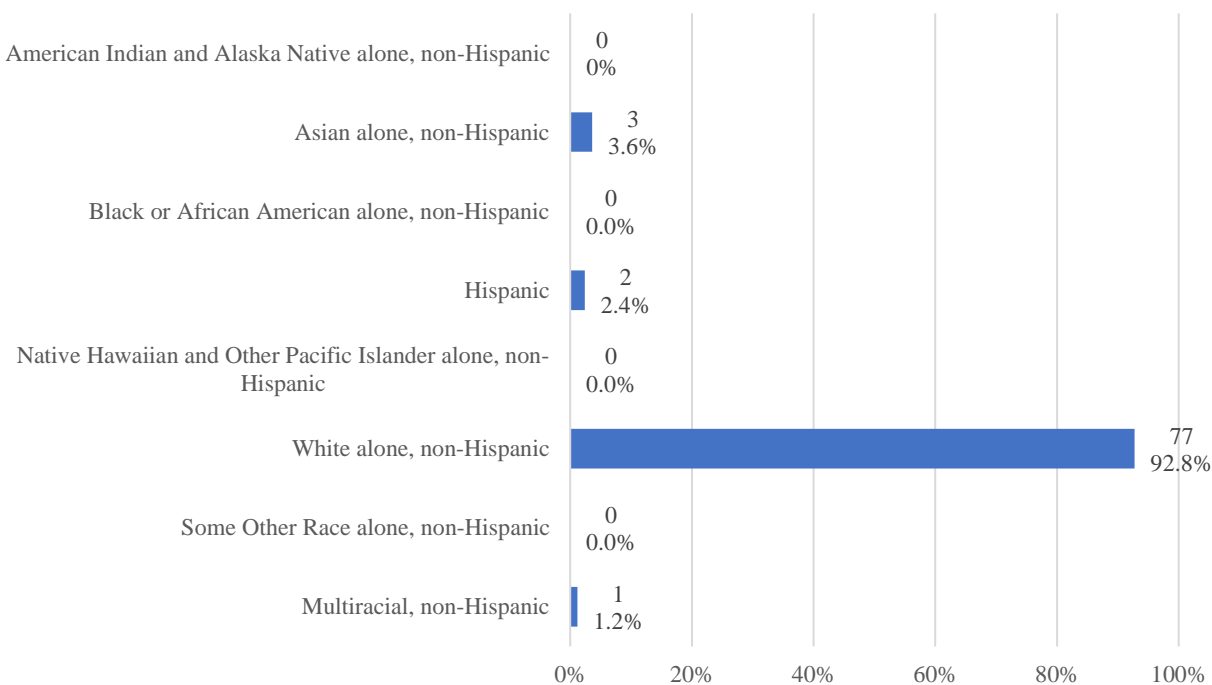
<sup>8</sup> We removed responses from judges who did not answer questions beyond the first section about their court's jurisdiction. For questions related to experience with Judicial Performance Evaluation, we removed responses from judges who indicated they had never been evaluated.



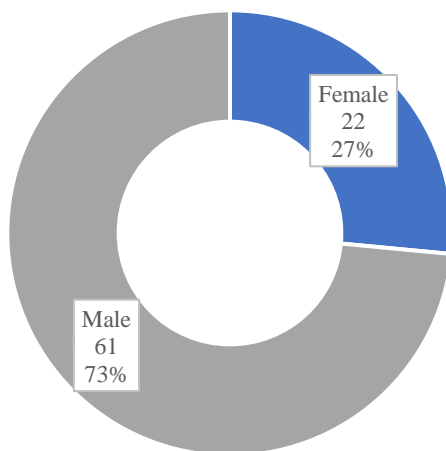
summarizes themes found across open-ended questions both at the end of the survey and between questions in earlier subsections.

## DEMOGRAPHICS

*Figure 1: Race/ethnicity of all respondents (n = 83)*

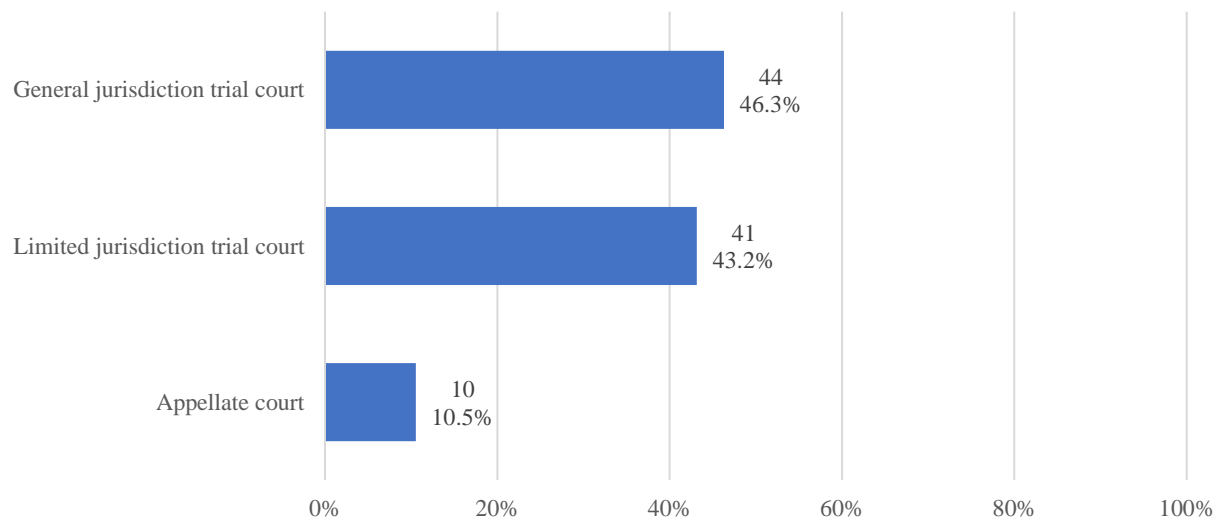


*Figure 2: Respondent sex (n = 83)*



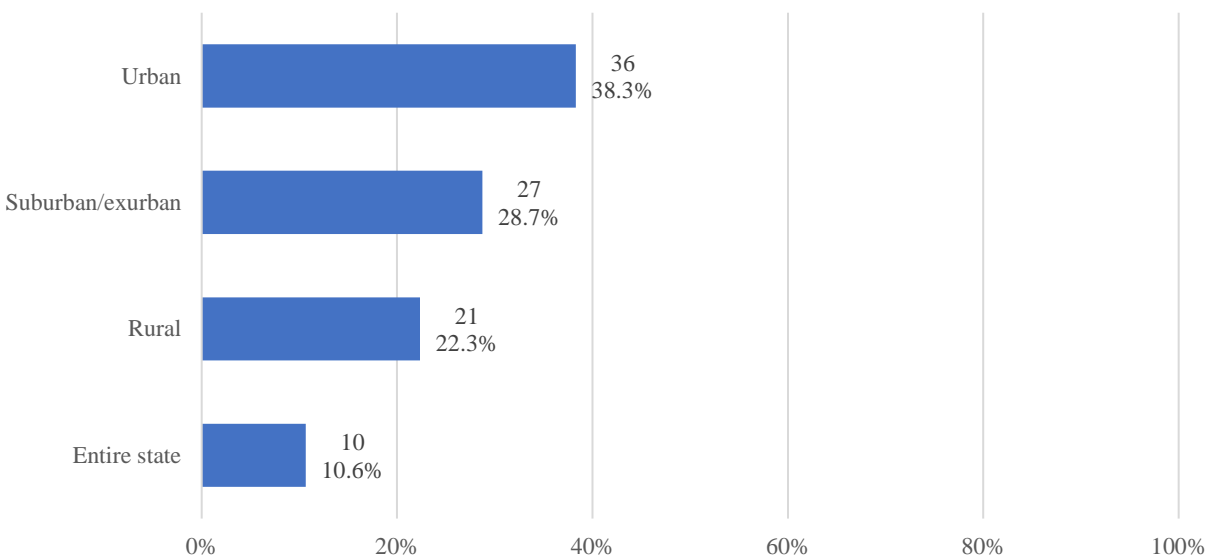
The largest proportion of respondents work in general jurisdiction trial courts (46.3%), with fewer working in a limited jurisdiction trial court (43.2%). The remaining (10.5%) respondents work in an appellate court. This differs from the distribution of judges subject to retention election, where a majority (57.4%) work in limited jurisdiction trial courts and fewer work in general jurisdiction trial courts and appellate courts (36.4% and 6.2%, respectively).<sup>9</sup> The largest proportion of respondents primarily serve urban communities (38.3%), with fewer serving suburban/exurban (28.7%) and rural (22.3%) communities.

*Figure 3: In what type of court do you work? (n = 95)*



<sup>9</sup> Utah Courts, Court Organization, Judges, Court Governance <https://www.utcourts.gov/knowcts/> (last visited Oct. 24, 2022).

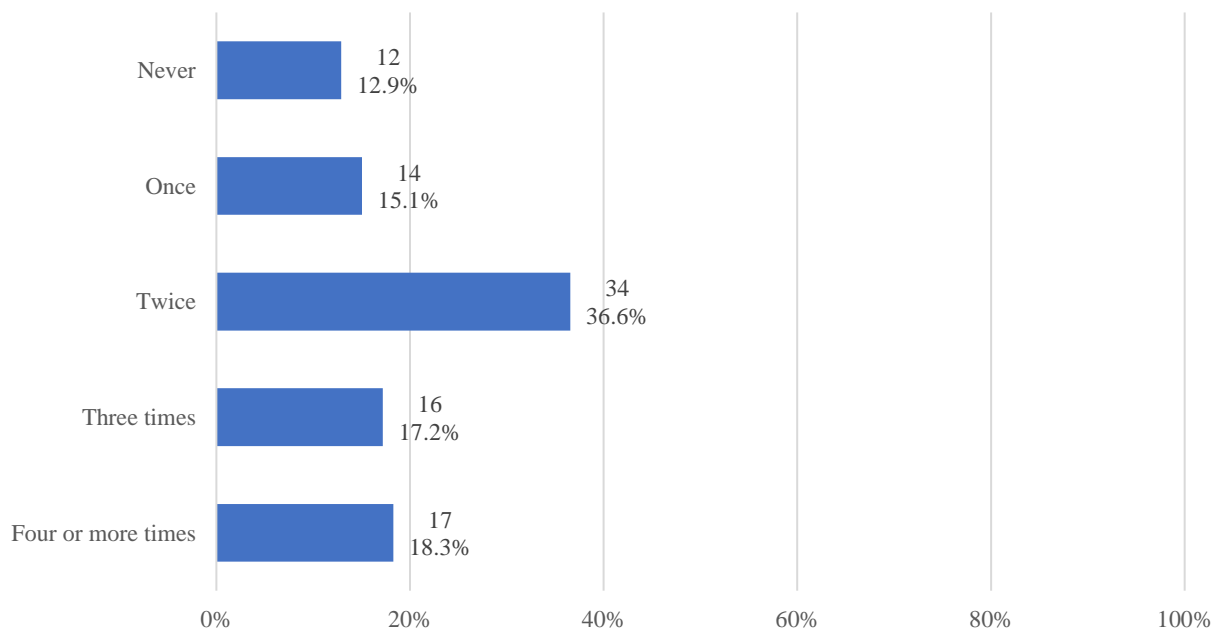
Figure 4: What type of community does your court primarily serve? (n = 94)



## EXPERIENCE WITH JPE

A large majority (87.2%) of respondents have been evaluated at least once, with approximately three-quarters (72.1%) having been evaluated twice or more. Out of those evaluated at least once, 44.3% reported never having someone specific to work with them to improve their performance after each evaluation.

*Figure 5: How many times have you been evaluated under your state's judicial performance evaluation (JPE) or judicial performance review (JPR) program (at any level of court)? (n = 93)*



*Figure 6: How frequently are you currently evaluated under your JPE/JPR program? (n = 70)*

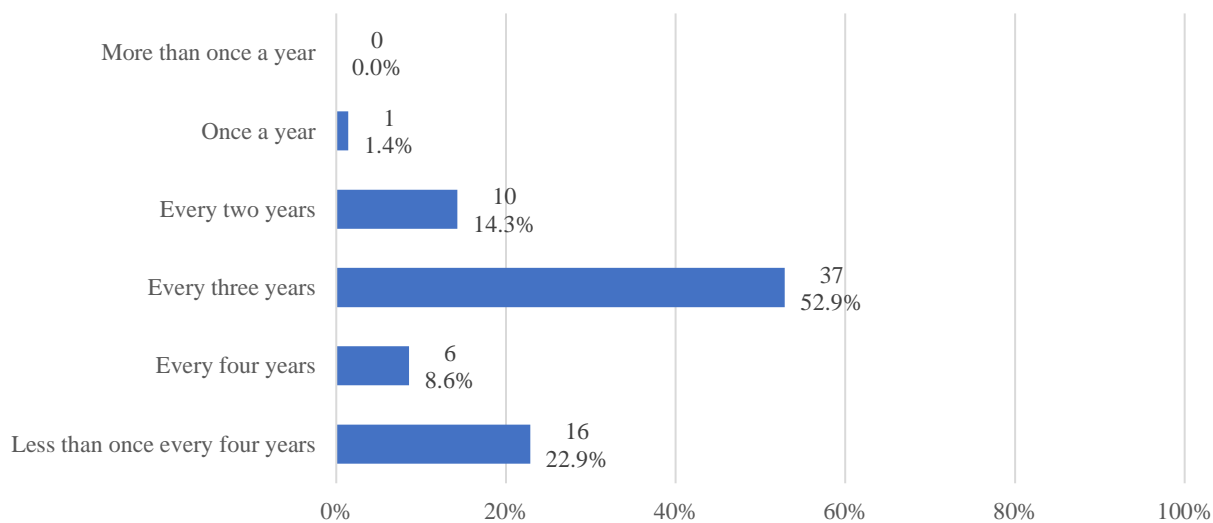
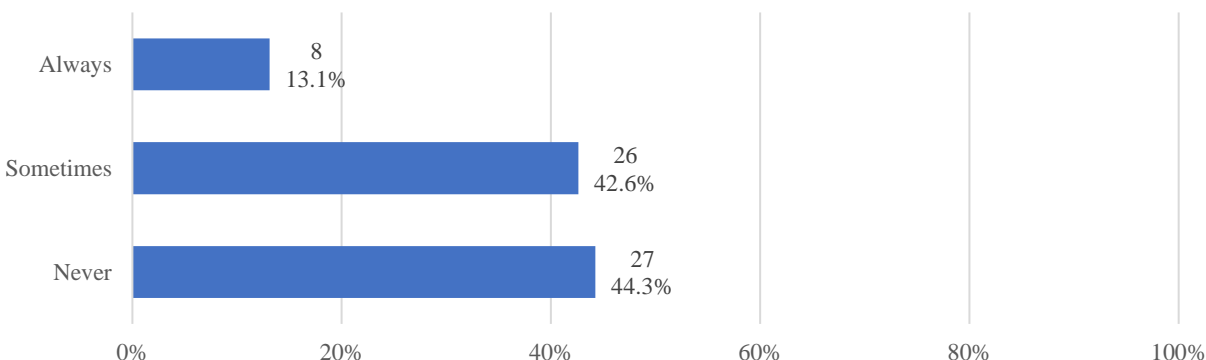


Figure 7: Is there someone specific who works with you to improve your performance after each evaluation? (n = 61)



## MOST IMPORTANT SKILLS, ABILITIES, AND QUALITIES

Prior to asking respondent judges to share any perspectives on JPE, the survey asked respondents to share, in their own words, the three most important skills, abilities, and qualities that make a good judge.<sup>10</sup> In analyzing responses to this question, we coded and organized responses into broad categories. For example, the category *Knowledge* includes responses that read “knowledge,” as well as “knowledge of the law” and “understanding of the law,” among others.

The first four results are similar to the responses of judges from all states combined. The top five reflect the minimum performance standards by which judges are evaluated in a full evaluation: legal ability, integrity and judicial temperament, administrative performance, and procedural fairness.<sup>11</sup>

Utah	All Study States
Knowledge (n = 37)	Patience (n = 300)
Neutrality and fairness (n = 36)	Knowledge (n = 292)
Patience (n = 26)	Neutrality and fairness (n = 192)
Listening (n = 26)	Compassion (n = 129)
Compassion (n = 19)	Intelligence (n = 88)

<sup>10</sup> The survey asked respondents to list their three responses to this question in order of importance. However, for purposes of this report, we have not factored list order into the analysis.

<sup>11</sup> See Utah Judicial Performance Evaluation Commission, *supra* note 7.

## PERSPECTIVES ON THE JPE PROCESS

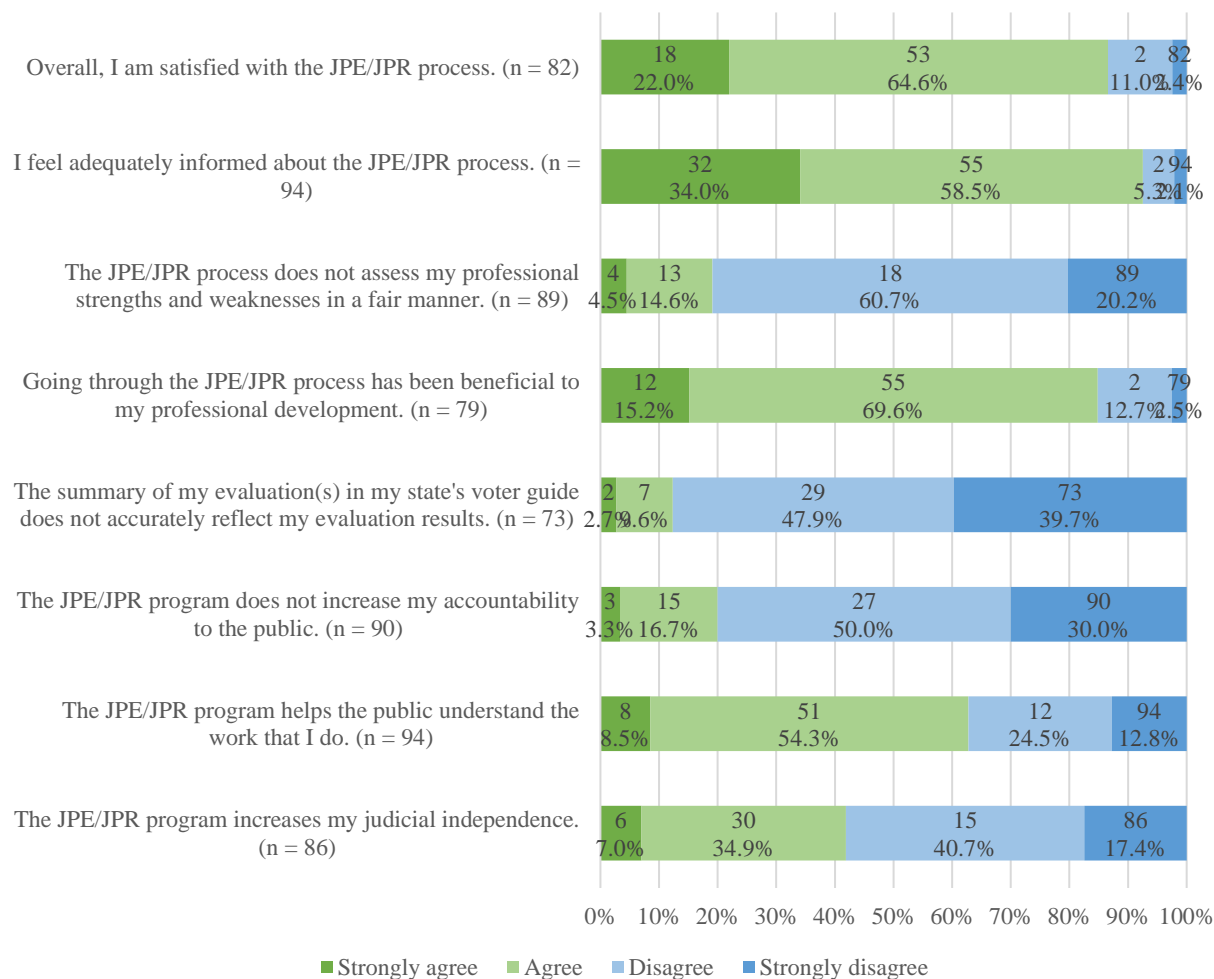
The largest section of the survey focused on judges' perspectives on the JPE process. The first block of items in this section asked respondents to indicate their levels of agreement with a series of statements about their perceptions of different aspects of the JPE process.<sup>12</sup>

A large majority of respondents (86.6%) were satisfied with the JPE process, with 92.5% of respondents feeling adequately informed about the process. Similarly substantial majorities agreed that the process has been beneficial to their professional development (84.8%), the process evaluates their strengths and weaknesses fairly (80.9%), and that the information in the voter guide is accurate (87.6%). While 80.0% of respondents believe the process increases their accountability to the public, only 62.8% agreed that the process helps the public understand their work, and fewer than half (41.9%) believed that the process increases their judicial independence.

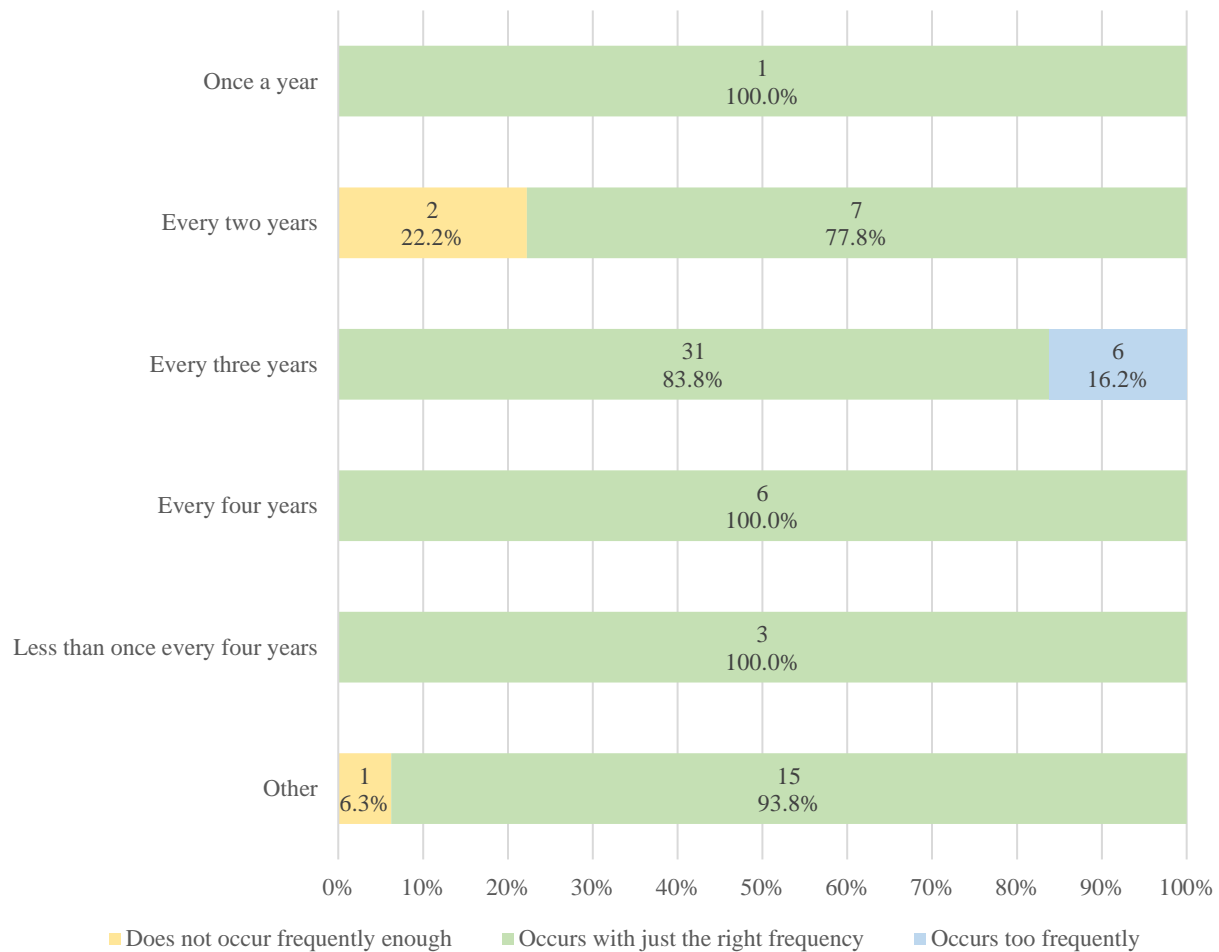
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<sup>12</sup> Note that we worded some statements in this block positively and some negatively. Wording statements in both directions helps to reduce bias.

*Figure 8: For each of the following statements, please choose the option that best reflects how strongly you agree or disagree with each statement about the JPE/JPR process in your state.*



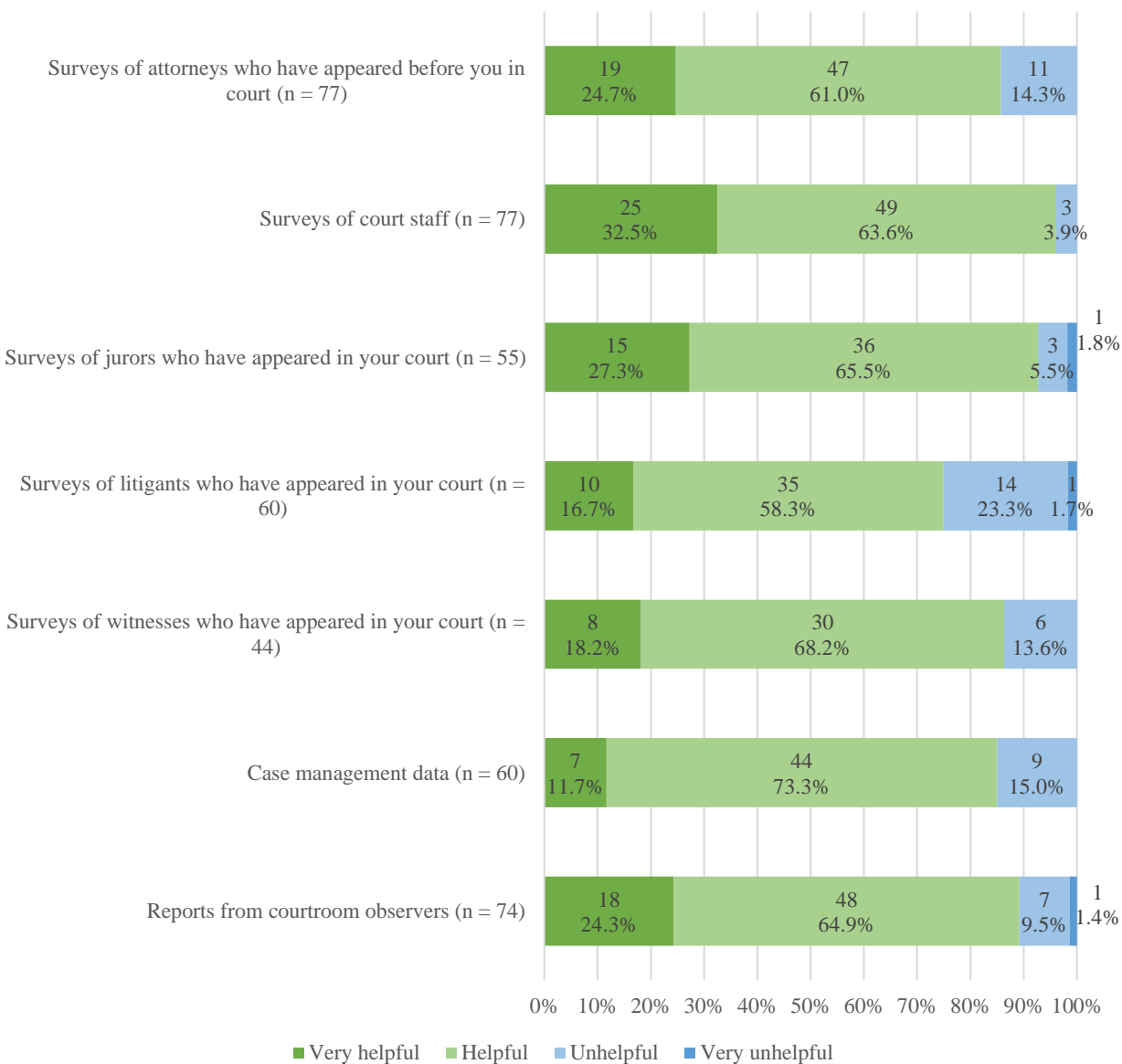
*Figure 9: Which of the following best reflects how you feel about the frequency of your JPE/JPR program? by evaluation frequency (n = 72)*



The next block of survey items asked respondents to evaluate the helpfulness of various components of the JPE process. A large majority of respondents agreed or strongly agreed that all components currently included are helpful. The component with the least agreement among respondents, surveys of litigants, was still identified as helpful by 75.0% of respondents.

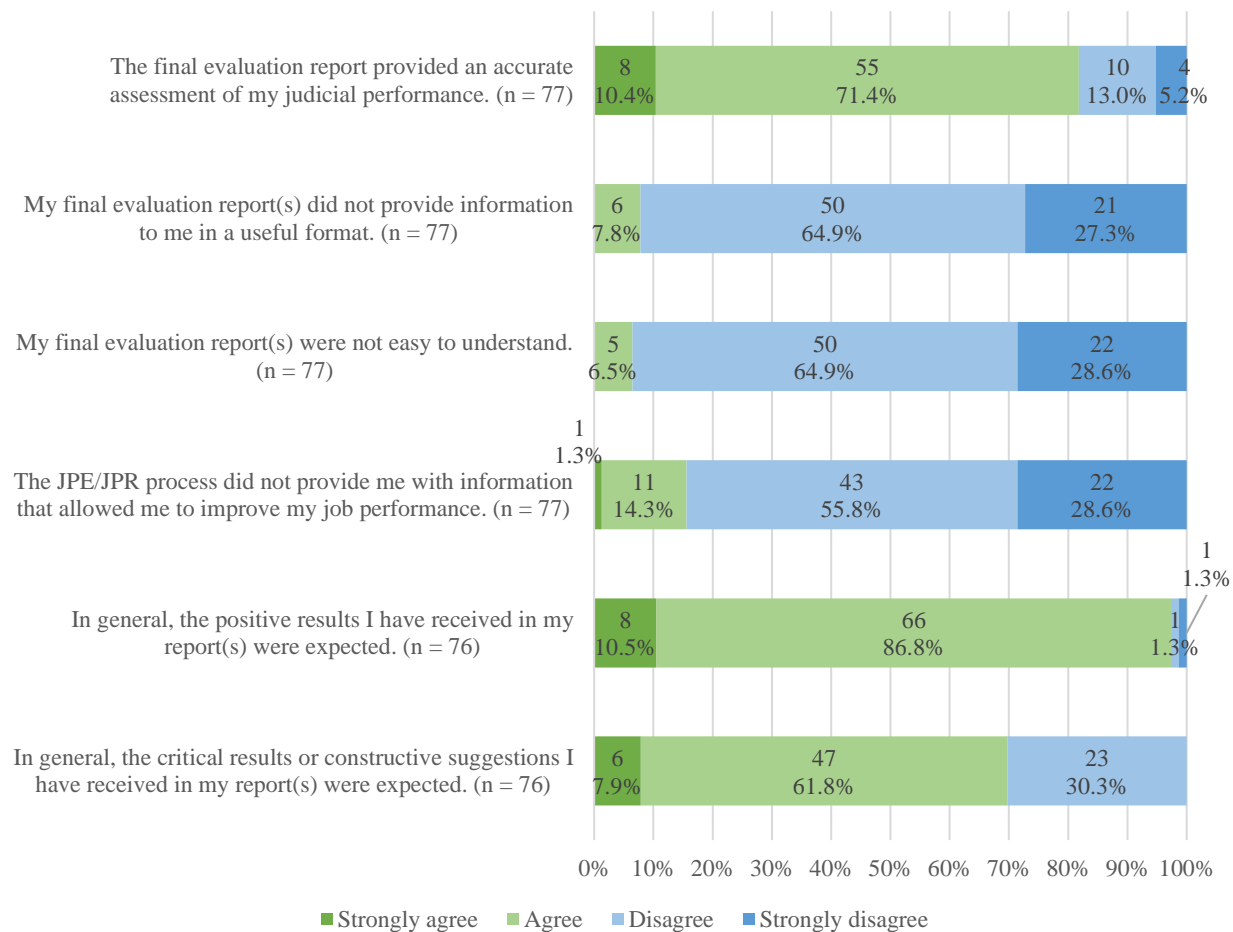


*Figure 10: How helpful is information from each of the following sources for understanding and improving your judicial performance?*



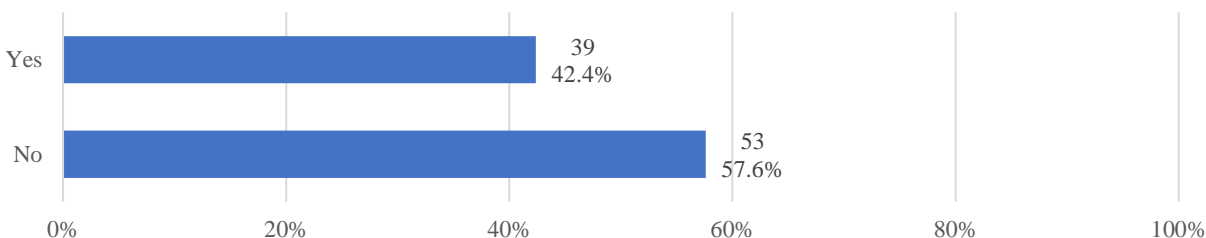
The third block of survey items focused on the final evaluation results. A majority of our respondents (81.8%) believe the final evaluation report accurately assessed their judicial performance. Regarding the report itself, 92.2% agreed that the final report provide results in a useful format, with 93.5% finding it easy to understand and 84.4% agreeing that the report provides them with information to improve their job performance. Nearly all respondents (97.3%) expected their positive evaluation results, while fewer (69.7%) expected the critical results they received.

*Figure 11: For each of the following statements, please choose the option that best reflects your current perspective on your state's JPE/JPR process.*



Only 42.4% of Utah respondents had specific concerns about the evaluation process. This is considerably lower than the percentage of respondents with concerns from eight states combined (58.7%). Responses to the open-ended questions provided valuable insights into respondents' specific concerns (see Open-ended Question Themes below for comment analysis).

*Figure 12: When you think about JPE/JPR in your state as a whole, do you have specific concerns about the evaluation process? (n = 92)*



## OPEN-ENDED QUESTION THEMES

Respondents had several opportunities to share their feedback in open-ended form. Each block of questions was followed by a text box for comments, and the question about specific concerns about the evaluation process was followed by a text box asking respondents to explain their answer. The end of the survey had three open-ended questions related to the most useful types of performance feedback, changes our respondents would make to the process, and any additional comments they wished to share.

Below we share verbatim quotes that represent the strongest themes that appeared across all open-ended questions.<sup>13</sup> We opted for this approach as respondents were just as likely to share suggestions and critiques following a block of questions as they were at the end of the survey. We divided these comments into subsections related to the evaluation process as a whole and the survey specifically. In both of these subsections comments are divided between critiques and suggestions. Headers within each of these subsections represent a broad theme found in the comments. Uniquely, Utah had a large number of positive comments, which we also compiled in a separate subsection below.

## EVALUATION PROCESS

### CRITIQUES

#### BIAS

- The JPE process has been flawed and political. The JPE process did not discount opinions that were based on race and gender. They believe that they have fixed the process. But it still remains political and biased. It appears that women and minorities are not graded fairly. If the process was to really provide constructive criticism, it would be good to hear that on a different timing than with respect to retention elections.

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<sup>13</sup> While the quotes remain verbatim, we have fixed typos and capitalization errors in order to improve readability. Some comments are presented in their entirety, while others have been cropped or split to include only the most relevant portions of the comment.

- Gender and race issues—evaluators are not always trained on implicit bias, comments directed at women that would never been directed to men (e.g., she doesn't smile enough). Use of pictures on website (who looks like a judge, who doesn't) and listing of pre-judge credentials (education, law firm, etc.) that may also increase implicit bias (e.g., if the judge went to Harvard, is she immediately viewed as more intelligent than a judge who went to the state school or if a judge worked at a big law firm, is he immediately viewed as a better judge in a complex commercial case than a former prosecutor).
- As I mentioned, it is biased, and the program has been unable to come up with proper metrics that can remove the bias. The responders are often biased, and the biases have been worse over the last 5 years. The programs really need to be re-evaluated. Also, JPE should not be the deciders as to who should be retained or not. They should provide their own information and let the voters decide. But they should be neutral.

### COURTROOM OBSERVATIONS

- My impression is that the skill of the courtroom observers varies considerably. I don't know if this is a matter of training, but observers watching an arraignment court (which is unavoidably chaotic) have a different experience from those observing, say, a jury trial. I'd hesitate to have someone evaluate appellate court opinions.
- I am not confident that the training that court evaluators receive is sufficient to achieve a fair, relevant report. I have received comments on past reviews that make it clear to me that the evaluators don't understand our court processes well enough to comment on how well I am performing them.
- I'm concerned that days and weeks of kind, caring and just court hearings and practices go overlooked and a day or two of court observations become the review and the summary of my work.

### SUGGESTIONS

#### COURT OBSERVERS

- I would better inform the court room observers about the demands of trial work. For example, there are times when the sheer volume of the calendar requires a judge to move things along, and that reality can appear to the untrained eye as impatience or an unwillingness to listen.
- Have more courtroom observers and have them spend more time in court observation.
- Not have observers comment on aspects of proceedings when they have no understanding of what may have gone on before. It's like commenting on proceedings based on what you read in the newspaper. It makes sense to comment on whether parties are treated with respect, calendar management issues, etc., but it should never be the case that observers comment on outcomes or how the parties get to a particular outcome. Observers don't know what communications have gone on with clients. Observers don't know what a party may have represented to the court in an earlier proceeding. When observers get just a piece of information, it may appear to them that someone did not have the opportunity to say what they wanted.

## PEER FEEDBACK

- Appellate judges receive feedback only from court staff and attorneys who have appeared before us. It would be helpful to have more data points, including feedback from district court and juvenile judges who apply our decisions and perhaps from the supreme court that reviews our opinions. It would also be helpful to have feedback on our written decisions although it's difficult to know who would be in the best position to do that.
- I would like to have some more quantifiable metrics to evaluate my overall performance and performance as compared to peers.

## FOLLOW-UP

- I would add specific, individualized opportunities to help each judge work on performance objectives in areas where he/she may need the most improvement.
- It would be more helpful to have some interaction with a live body/real person to digest the report and set goals/strategy to improve.
- I would encourage them to listen to the areas in which judges feel as though they are not being accurately assessed, and to provide a way for that to happen (such as this survey) without judges feeling as though they may be viewed as just complaining because they don't like the process. No one enjoys being evaluated, but most of us would like to feel that the process is fair, objective, and productive, and my impression from speaking with others on the bench is that they feel as though they can't raise their concerns without it reflecting poorly on them in the evaluation process.

## SURVEY

### CRITIQUES

#### RESPONSE RATE

- I am not sure it could be improved upon significantly. In a rural area, the pool of community partners that provide feedback is smaller than in larger areas and therefore, one negative can have an inflated result.
- For appellate judges, the pool of survey respondents is relatively small and a comparatively small number of disgruntled lawyers can make too big a difference in the evaluation.
- It is easy for a few negative comments, evaluations to overly impact consideration.

#### OUTCOME BIAS

- It is unfortunate that the assessments from disgruntled participants are just taken at face value. It is not the duty of the judge to make everyone happy but to interpret and apply the law, to be fair, to be respectful. Even so, parties will disagree with the outcomes. Anonymous responses, just like social media, allows people to vent their frustrations with an adverse or unpopular ruling.
- Typically the disgruntled respond. Those that think you are doing a good job don't respond as they, as I have been told, think everyone thinks the same.
- Court is an adversarial process. There is always a winner and a loser. Receiving feedback from individuals that are unhappy because they lost their case (even if it was a correct legal decision

and the judge performed well) is scary. To have your career hang on the feedback of those individuals is concerning.

- Every hearing, judges make one party unhappy. Many of the evaluations are completed by individuals against whom judges have ruled and often have a skewed opinion, given the experience. As a judge I am always worried about the evaluations and it impacts my decisions.

#### GENDER/RACE BIAS

- The first deals with implicit and explicit bias against women judges and judges of color. I know that our commission is aware of the problem, and is trying to address it. But it is still very concerning.
- This concern applies everywhere—inherent bias may impact the evaluation process, but it is difficult to weed out unless it is obvious.

#### SUGGESTIONS

##### RESPONSE RATE

- Increase and diversify the pool of potential respondents, and do more to get a higher response rate, so that a few loud voices do not have disproportionate impact on the JPE process.
- I would allow for more responses to be able to give context to questions that are raised. One or two people who are unhappy with a judge can have more of an impact and a greater voice that they really represent.
- Increase the pool of respondents to surveys so that we get a better idea of the job we are doing. Include the litigants and the district and juvenile judges.
- Create an incentive for more participation by lawyers, staff and jurors in surveys. Sometimes the response rate is low, and those with the strongest opinions chime in. A high response rate would offer a more complete picture to the judge being evaluated.

#### CONTEXT AND WEIGHTING

- Breakdown of where the feedback came from.
- Feedback that accounts for the “disgruntled party” syndrome can be helpful.
- Often times, the feedback is not constructive by comparing judges to other judges. Many times, angry counsel or litigants provide criticism that is often not useful or fair. Appeal our decisions if you don't like it. I have used constructive criticism to take more classes or CJE to be a better judge. My goal is to be a better judge. However, I have had JPEC essentially refuse to consider everything I had done.
- More information on negative feedback, such as looking at a party's or attorney's motivation for giving negative feedback. This may clarify why a negative response was given: such as if they were ruled against was it fair anyway, is the person a repeat offender, what grounds they believe exist for negative responses.
- I would categorize the feedback and scores based on the position/category of the person providing feedback. For example, the judge's feedback/scores from lawyers is . . . . The judge's feedback/scores from court staff is . . . . etc. Again, because feedback from some categories is much more valuable in certain areas.

## SURVEY RESPONDENTS

- Surveys of staff should only be those that work directly with the judge. Not general surveys of all staff.
- I would give parents and children in juvenile court an opportunity to evaluate their judge after their case is over, or I would eliminate the evaluation from DCFS caseworkers.

## POSITIVES

### DIRECTOR

- Overall I think they do a very fine and conscientious job that provides a valuable service to our community. The administrator is exceptional, and does her very best to maintain a high standard for the program. Biggest concern is the voice that one disgruntled person could have on your evaluation.
- JPEC is led by one of the most competent people I know. She is committed to collecting reliable information, evaluating it fairly, and presenting truth to the voting public. She defines success of JPEC in these terms. She communicates this to the judiciary and is widely trusted by the judges whom JPEC evaluates. Utah's process should be a model for the United States.
- Utah's JPE program is done very well. The Director is always amenable to suggestions for ways to improve the system within the legislative and financial constraints which exist. Like our justice system, it's not perfect, but I believe it's the best thing out there and continues to improve.
- I appreciated that the director of our program reached out on her own to address an issue that I thought was problematic in one evaluation. She also thought it was problematic and let me know what steps had been taken to address it.
- [The Executive Director] is professional and responsive. I wish the public would take the time to consider the JPE information before voting in the retention elections. The vast majority of voters don't take advantage of the information online, and I know [the Executive Director] makes efforts to promote/publicize their work. I think in an age of social media, where judges are routinely skewered anonymously on platforms that allow misinformation to run rampant, reliable information should be promoted heavily--particularly in the 90 days leading up to retention elections. I would also note that Utah's approach to selection and retention of judges is, I believe, an excellent model that other states should adopt. It is designed to preserve the independence and integrity of the judicial branch; when I see partisan billboards and signage to elect or re-elect judges in other states, it makes me cringe.
- A lot depends upon the quality of the individuals involved in administering the program. Having served through different leadership, trust in the process and buy-in to the program is greatly enhanced with leadership that works to build that trust and actively communicates. ([The Executive Director] in Utah is fantastic and should be looked at as a model for other jurisdictions.)

## PROCESS HELPFULNESS AND FAIRNESS

- I have been impressed by the program which assists me to personally review things that need to be addressed.

- I think it is a helpful process and I think our State's JPEC program does a good job.
- I believe the State does an overall very good job. There seem to be enough checks and balances to ensure the fairness of the tool as opposed to being able to use it for politicized reasons. That is important in a time where the independence of the judiciary and its core functions are often not understood or are misconstrued intentionally.

## SURVEY RESULTS SUMMARY

Several key themes came up in the qualitative and quantitative elements of the survey:

- In general, Utah judges have a positive view of the JPE process, with 86.6% reporting they are satisfied overall with the process. Respondents reported feeling informed about the process and finding the results helpful. Compared to other states surveyed, a smaller proportion of judges had specific concerns with the process.
- As is the case in other states, respondents were very concerned about bias in the process itself and in survey respondents. Bias includes both gender/racial bias as well as outcome-related bias.
- Similar to other states, Utah respondents were also concerned about the low response rate.
- Respondents suggested increasing training for observers and adding context to survey responses in order to decrease bias.
- Several respondents also suggested there be follow-up and resources for judges to improve after an evaluation.
- Respondents specifically praised the administrators in charge of the process, and their emphasis on improving it. Several of our respondents credited the Executive Director's efforts as the reason for the process going so well.

The results of surveys sent to Utah judges are similar to those across all eight states, with slight differences. Utah respondents tended to be more satisfied with the process. The specific concerns expressed by our respondents are similar to the concerns most often voiced by judges across all states: bias in the process and a low number of responses received.

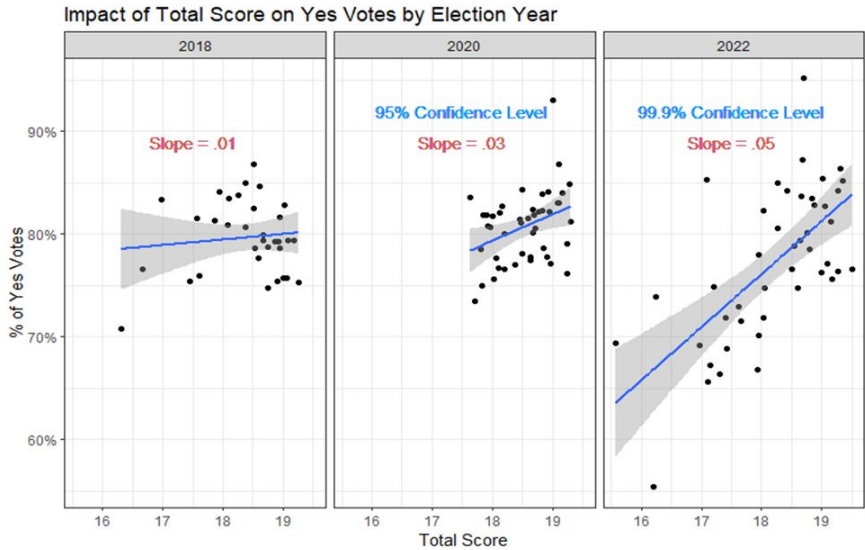


# Election 2022 Analysis

## Evaluation Impact

The past few elections show an increased variation among “yes” vote percentages between judges.

Election Year	Highest Yes %	Lowest Yes %	Point Difference	Average Yes %
2012	87.83%	76.87%	10.97	81.96%
2014	81.55%	71.23%	10.32	77.04%
2016	86.64%	57.58%	29.06	77.54%
2018	86.84%	70.81%	16.03	79.66%
2020	93.03%	75.02%	18.01	81.04%
2022	87.19%	55.38%	31.80	77.44%



## IAALS JPE 2.0 Utah Judge Perception Report

## Overall Findings

- Utah judges have a *positive view* of the JPE process, with 86.6% reporting they are satisfied overall with the process.
  - Respondents reported feeling informed about the process and finding the results helpful.
  - Only 42.4% of Utah respondents have *specific concerns* about the evaluation process. This is considerably lower than the percentage of respondents with concerns from eight states combined (58.7%).
- Concerns
  - As in other states, respondents are very concerned about *bias* in the process itself and in survey respondents. Bias includes both gender/racial bias as well as outcome-related bias.

## Findings (cont.)

- Similar to other states, Utah judges are concerned about low *response rates*.
- Suggested improvements
  - Increase *training* for observers
  - Add *context* to survey responses in order to decrease bias and assess relevance.
  - *Follow-up* and resources to improve after an evaluation.
- Praise:
  - Utah's effort
  - Efforts made to improve the process

## Most Important Skills and Qualities

Utah	All Study States
Knowledge ( <i>n</i> = 37)	Patience ( <i>n</i> = 300)
Neutrality and fairness ( <i>n</i> = 36)	Knowledge ( <i>n</i> = 292)
Patience ( <i>n</i> = 26)	Neutrality and fairness ( <i>n</i> = 192)
Listening ( <i>n</i> = 26)	Compassion ( <i>n</i> = 129)
Compassion ( <i>n</i> = 19)	Intelligence ( <i>n</i> = 88)

## Conclusions

- Helps to validate the results of JPEC's internal judge surveys
- Gives cross-state comparisons to see how we're doing
- Justifies continued efforts to ensure that the evaluations are accurate and bias minimized
- Points to areas for continued process improvement

# 2023 REPORT TO THE COMMUNITY

## 2022 ELECTION WRAP UP

Court Level	Regular	Prov.*	Total
Supreme	-	1	1
Appeals	-	-	-
District	11	13	24
Juvenile	3	4	7
Justice	27	4	31
<b>Grand Total</b>	<b>41 (65%)</b>	<b>22 (35%)</b>	<b>63</b>

Judges eligible to stand for retention on 1/1/2020

**73**

Completed retention evaluation reports

**72**

Judges on the ballot

**63**

Retained judges

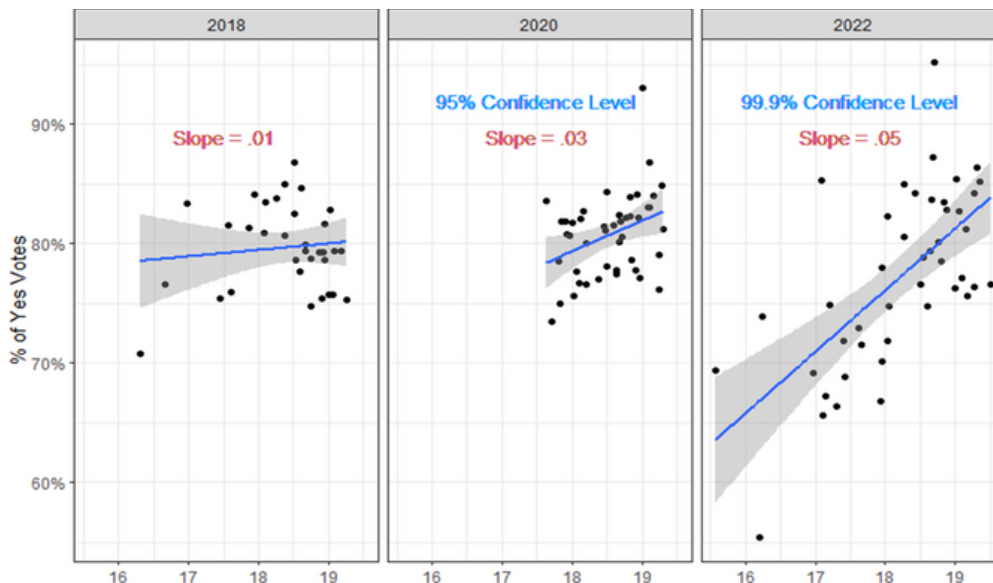
**63**

### Did You Know?

Statute requires commissioners to vote that a judge meets or exceeds performance standards if the judge meets minimum requirements, unless substantial countervailing evidence exists. Online judge reports show the range of performance metrics among judges. See [judges.utah.gov](https://judges.utah.gov).

\*The Utah Constitution requires judges to stand for the first general election at least three years after appointment. The provisional term is shorter (3-5 years) than the regular term. Utah judges serve six-year terms; Utah Supreme Court justices serve ten-year terms.

## JPEC IMPACT ON VOTING OUTCOMES



Noticing a widening variation among "yes" vote percentage outcomes among judges at each election, JPEC decided to examine the statistical impact of judge evaluations on judicial election outcomes. It found the impact of the judges' total score on "Yes" votes to be statistically significant in 2020, and increasingly significant in 2022.

# JUDICIAL PERFORMANCE EVALUATION COMMISSION 2023 REPORT TO THE COMMUNITY

## VOICES OF THE 2022 ELECTION EVALUATIONS

JPEC builds judge evaluations using input from a variety of community members from within and outside of the court system. Each piece of information JPEC receives about a judge is compiled and reviewed in full by JPEC's volunteer commissioners. The 2022 judge evaluation reports includes these important voices:

64 PUBLIC  
COMMENTS

167 JUROR  
SURVEY  
RESPONSES

3,406 ATTORNEY  
SURVEY  
RESPONSES

### Who are the JPEC Commissioners?

JPEC's 13 volunteer commissioners are social workers, accountants, lawyers, and community leaders who donate their time to carefully evaluate every Utah judge. Commissioners are appointed by Governor Spencer Cox, the Utah Legislature, and the Utah Supreme Court.

70 JUDICIAL  
COUNCIL  
CERTIFICATIONS

1 DISCIPLINARY  
ACTION BY THE  
UTAH SUPREME  
COURT

221 COURTROOM  
OBSERVATIONS

825 ALLIED  
PROFESSIONAL  
SURVEY RESPONSES

## PILOT PROJECT LAUNCH! SELF-REPRESENTED LITIGANT SURVEYS

Litigants without legal representation, those who represent themselves in court, are a rapidly growing population of court users and can change the courtroom dynamic. JPEC is working to incorporate input from these self-represented litigants into the performance evaluation survey pool (currently made up of attorney's, court staff, allied professionals, and jurors). Capturing these important voices is an important step to ensure that court users have input into judicial evaluation.

The two-part pilot will include 1) a standing survey kiosk inside of select courtrooms, and 2) an online survey available to any self-represented, MyCase users that opt-in to the pilot study. It will also study other ways to collect valid information about judge interactions with litigants.

[JUDGES.UTAH.GOV](https://judges.utah.gov)

# Tab 4

## Agenda

### JUDICIAL COUNCIL JANUARY 2023

Courts presented for certification:

#### **Second District, Davis County, Farmington, Judge Neil, Family Dependency Court**

Court meets all the REQUIRED BEST PRACTICES. The Court meets all of the PRESUMBED BEST PRACTICES except for #35 which states the Court should have a minimum of 15 participants and no more than 125 participants.

Reason: Numbers have dropped since Covid and courts were conducting remote hearings. The Court has moved back to in person hearings and has a number of participants that are going through orientation. It is anticipated that the number of participants will increase now that the Court is back to in-person hearings.

The Judge has an excellent understanding of Problem Solving Courts, he has a good team and a great relationship with his participants. He spent adequate time with each participant during the court session.

#### **Second District, Weber County, Ogden, Judge Neider, Adult Drug Court**

Court meets all the REQUIRED BEST PRACTICES. The Court meets all of the PRESUMBED BEST PRACTICES.

The team is good and experienced. Discussion between team members and the Judge were excellent. All team members have a good understanding of how a Problem Solving Court should function.

#### **Second District, Weber County, Ogden, Judge Williams, Family Dependency Court**

Court meets all REQUIRED BEST PRACTICES. The Court meets all PRESUMBED BEST PRACTICES except #35 which states the Court should have a minimum of 15 participants and a maximum of 125 participants.

Reason: The team states that because of Covid their numbers have decreased however, it is their feeling that since the Court has gone back to in-person sessions that the numbers will increase again.

This is also a good team that has a good understanding of Problem Solving Court. All team members were engaged during the staffing prior to court. The Judge did an excellent job in relating to the participants, and spent adequate time with each of the participants.

#### **Third District, Salt Lake County, Salt Lake City, Judge Knight, Juvenile Mental Health Court (CARE)**

The Court meets all REQUIRED BEST Practices except the following: #31, #32 ,#41,and #42.

Reason: Most of the participants do not have a substance abuse issue so there is no reason to require 90 days clean time' In addition the Juvenile Court does not allow for a significant amount of time to reunify a family or have sufficient enough tome to maintain jurisdiction over a juvenile. So the

requirement of 90 days clean and the program being a minimum of 12 months do not apply. In addition the Juvenile Court does not require juveniles to attend a 12 step program which in the case of mental health clients is not warranted.

The Court meets all PRESUMBED BEST PRACTICES except the following: #20,#23,#25,#28,#35, and #37.

Reason: #20 requires manualized treatment. When a juvenile has a substance abuse issue the treatment is manualized and documented. However, this treatment is not provided in all cases because most of the participants do not have a substance abuse issue. #23 requires participants to go through a preparatory intervention before referral to a 12 step program. Most mental health participants do not get referred to a 12 step program in the juvenile court. #25, and #28 require referrals from the court for safe housing and job preparation. These participants are juveniles and most still live at home and are not old enough to seek employment. #35 requires more than 15 and less than 125 participants. In the juvenile court they are capping most of these programs at 12 participants. #37 requires tracking of new arrests and convictions. These are not tracked in the juvenile mental health court.

It should be noted that both the team and the judge were fully engaged with the participants and in most cases one of the parents of the participants. The judge showed a tremendous amount of understanding and patience with the participants. The judge spent as much time with the participants and the parents as needed. The participants seemed to truly seek the judge's approval.

#### **Fourth District, Wasatch County, Heber, Judge Brown, Adult Drug Court**

The Court meets all REQUIRED BEST PRACTICES. The Court meets all PRESUMBED BEST PRACTICES except for #35 which requires more than 15 but less than 125 participants. The number of participants is lower than 15.

Reason: Judge Brown claims this is because of Covid and that the team is hoping now that the Court is back to in person sessions that the number of participants will increase. It should be noted that the team had very good discussion concerning each of the participants during staffing. There was good interaction with the Judge and all team members contributed to the discussions.

During the Court session the Judge spent more than adequate time with each participant. There appeared to be a good relationship between the Judge and the participants. The Court functioned properly.

#### **INFORMATIONAL PURPOSES ONLY**

Fifth District, Washington County, St. George. Judge Leavitt, Family Dependency Court. Judge Leavitt informed me that the last participant in his Family Court graduated in the month of December. He has requested that the Judicial Council suspend his court until such time as he re-acquires participants.

Second District, Davis County, Farmington, Judge Sipes, Family Dependency Court. Judge Sipes received permission from the Judicial Council approximately a year ago to start a new Family Court in Davis County. Those plans were put on hold during Covid. The Judge has a planning meeting set for the 25<sup>th</sup> of January with treatment, prosecution, defense, and family services to discuss the startup of the court.

Third District, Salt Lake County, Salt Lake City, Judge Shaughnessy, Adult Drug Court. The court was observed in 2022 however the checklist has not been returned as of the Council meeting. After speaking with the Judge it is anticipated that the checklist will be completed and returned by the end of this month. However, during the observation there were no problems detected with the court. It is a well-functioning Adult Drug Court.



**UTAH JUDICIAL COUNCIL**  
**FAMILY DEPENDENCY COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED DECEMBER 7, 2020

**COURT LOCATION:** Davis County, Farmington

**COURT NUMBER:** \_\_\_\_\_

**JUDGE NAME:** Neil

**REVIEW DATE:** December, 2022

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

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

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Family dependency court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Family dependency court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Family dependency court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Family dependency court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*
X	<input type="checkbox"/>	30	Upon entering the Family dependency court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Family dependency court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Family dependency court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Family dependency court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Family dependency court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Family dependency court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of family dependency court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem and DCFS caseworker (in family dependency courts), and the judge attend each staffing meeting.	VIII.B.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem and DCFS caseworker (in family dependency courts), and the judge attend each Family dependency court session.	VIII.A.*
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Family dependency court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Family dependency court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Family dependency court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Family dependency court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Family dependency court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Family dependency court judge attends current training events on legal and constitutional issues in Family dependency courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Family dependency court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Family dependency court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	<b>BPS</b>
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Family dependency court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Family dependency court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Family dependency court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Family dependency court and continuing as necessary throughout their enrollment in the program.	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	27	All Family dependency court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Family dependency court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of REFERRAL..	
X	<input type="checkbox"/>	31	Team members are assigned to Family dependency court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Family dependency court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Family dependency courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Family dependency court model and best practices in Family dependency courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input type="checkbox"/>	XX	35	The Family dependency court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Family dependency court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Family dependency court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Family dependency court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self- improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Family dependency court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Family dependency court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Family dependency courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Family dependency court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
<input type="checkbox"/>	XX	10	Before starting a Family dependency court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Family dependency courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Family dependency court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
<input type="checkbox"/>	XX	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Family dependency court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Family dependency court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	XX	16	The Family dependency court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

**UTAH JUDICIAL COUNCIL**  
**ADULT DUI COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED DECEMBER 7, 2020

**COURT LOCATION:** WEBER COUNTY, OGDEN

**COURT NUMBER:** ADC29WEBER

**JUDGE NAME:** NEIDER

**REVIEW DATE:** AUGUST, 2022

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

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
X	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
X	<input type="checkbox"/>	3	The program admits only participants who are high-risk, high-need, however, if a program is unable to target high-risk and high-need offenders as measured by RANT or some other approved and validated assessment tool, the program develops alternative tracks with services that are modified to meet risk and need levels of its participants.	I.B.*
X	<input type="checkbox"/>	4	Candidates for the Dui court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
X	<input type="checkbox"/>	5	Candidates for the Dui court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
X	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
X	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Dui court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Dui court.	I.D.
X	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Dui court.	I.D.
X	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Dui court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
X	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
X	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Dui court.	III.C.



YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Dui court team.	III.D.
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Dui court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Dui court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Dui court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug and/or alcohol testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug and/or alcohol testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	28	Drug testing utilized by the Dui court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*
X	<input type="checkbox"/>	30	Upon entering the Dui court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug and alcohol-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Dui court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Dui court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Dui court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Dui court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Dui court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of dui court.	VI.I.*

YES	NO	#	<b>REQUIRED CERTIFICATION CRITERIA</b> <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each Dui court session.	VIII.A.*
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Dui court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Dui court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Dui court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Dui court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Dui court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Dui court judge attends current training events on legal and constitutional issues in Dui courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Dui court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Dui court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	<b>BPS</b>
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X	<input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X	<input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Dui court population.	VII.D.
X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Dui court's programmatic phase structure.	V.A.
X	<input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X	<input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X	<input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X	<input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Dui court.	V.J.
X	<input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Dui court and continuing as necessary throughout their enrollment in the program.	VI.D.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Dui court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X	<input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Dui court.	VI.I.
X	<input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
X	<input type="checkbox"/>	31	Team members are assigned to Dui court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Dui court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Dui courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Dui court model and best practices in Dui courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
X	<input type="checkbox"/>	35	The Dui court has more than 15 but less than 125 active participants.	IX.A.*
X	<input type="checkbox"/>	36	The Dui court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Dui court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Dui court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Dui court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	XX	4	For at least the first ninety days after discharge from the Dui court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Dui courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Dui court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
<input type="checkbox"/>	XX	10	Before starting a Dui court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Dui courts and develop fair and effective policies and procedures for the program.	VIII.F.
<input type="checkbox"/>	XX	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Dui court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Dui court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	XX	15	Outcomes are examined for all eligible participants who entered the Dui court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	XX	16	The Dui court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

**UTAH JUDICIAL COUNCIL**  
**FAMILY DEPENDENCY COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED DECEMBER 7, 2020

**COURT LOCATION:** Weber County, Ogden

**COURT NUMBER:** JFDDC17WEBER

**JUDGE NAME:** Williams

**REVIEW DATE:** 10/2022

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

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



YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Family dependency court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Family dependency court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Family dependency court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Family dependency court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.



YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*
X	<input type="checkbox"/>	30	Upon entering the Family dependency court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Family dependency court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Family dependency court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Family dependency court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Family dependency court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Family dependency court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of family dependency court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem and DCFS caseworker (in family dependency courts), and the judge attend each staffing meeting.	VIII.B.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem and DCFS caseworker (in family dependency courts), and the judge attend each Family dependency court session.	VIII.A.*
X	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has good reason for a participant to attend discussions related to that participant's case.	VIII.B.
X	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Family dependency court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Family dependency court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Family dependency court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Family dependency court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Family dependency court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Family dependency court judge attends current training events on legal and constitutional issues in Family dependency courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Family dependency court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Family dependency court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.

YES NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X <input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X <input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
X <input type="checkbox"/>	11	Drug test results are available within 48 hours.	VII.H.
X <input type="checkbox"/>	12	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
X <input type="checkbox"/>	13	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Family dependency court population.	VII.D.
X <input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X <input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X <input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Family dependency court's programmatic phase structure.	V.A.
X <input type="checkbox"/>	17	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
X <input type="checkbox"/>	18	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
X <input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
X <input type="checkbox"/>	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
X <input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X <input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
X <input type="checkbox"/>	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
X <input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Family dependency court.	V.J.
X <input type="checkbox"/>	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Family dependency court and continuing as necessary throughout their enrollment in the program.	VI.D.
X <input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.

YES NO	<b>PRESUMED CERTIFICATION CRITERIA</b>		<b>BPS</b>
	#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	
X <input type="checkbox"/>	27	All Family dependency court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
X <input type="checkbox"/>	28	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Family dependency court.	VI.I.
X <input type="checkbox"/>	29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
X <input type="checkbox"/>	30	Clients are placed in the program within 50 days of arrest.	
X <input type="checkbox"/>	31	Team members are assigned to Family dependency court for no less than two years.	
X <input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Family dependency court issues.	
X	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Family dependency courts.	VIII.F.
X <input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Family dependency court model and best practices in Family dependency courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
XX	35	The Family dependency court has more than 15 but less than 125 active participants. COVID	IX.A.*
X <input type="checkbox"/>	36	The Family dependency court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
X <input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Family dependency court.	X.C.
X <input type="checkbox"/>	38	A skilled and independent evaluator examines the Family dependency court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X <input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X <input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES NO	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b>		<b>BPS</b>
	#	<i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	
X <input type="checkbox"/>	1	The Family dependency court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X <input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X <input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	<b>BPS</b>
X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Family dependency court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Family dependency courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Family dependency court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Family dependency court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Family dependency courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Family dependency court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Family dependency court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Family dependency court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	X	16	The Family dependency court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

**UTAH JUDICIAL COUNCIL**  
**MENTAL HEALTH COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED DECEMBER 7, 2020

**COURT LOCATION:** SALT LAKE COUNTY

**COURT NUMBER:** JMHC3SALT LAKE

**NAME:** Judge Knight

**REVIEW DATE:** November, 2022

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

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

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X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Mental health Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
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X	<input type="checkbox"/>	51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the Mental health Court must be reasonably related to the costs of testing or other services.	
X	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
X	<input type="checkbox"/>	53	The Mental health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
X	<input type="checkbox"/>	54	The Mental health Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
X	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
X	<input type="checkbox"/>	2	The Mental health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
X	<input type="checkbox"/>	3	Each member of the Mental health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
X	<input type="checkbox"/>	4	The Mental health Court judge attends current training events on legal and constitutional issues in Mental health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
X	<input type="checkbox"/>	5	The judge presides over the Mental health Court for no less than two consecutive years.	III.B.
X	<input type="checkbox"/>	6	The Judge spends an average of at least three minutes with each participant.	III.F.*
X	<input type="checkbox"/>	7	The Mental health Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
X	<input type="checkbox"/>	8	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.

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X	<input type="checkbox"/>	9	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
X	<input type="checkbox"/>	10	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. WHEN NECESSARY	VII.B.*
X	<input type="checkbox"/>	11	Drug test results are available within 48 hours. WHEN REQUIRED	VII.H.
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X	<input type="checkbox"/>	14	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
X	<input type="checkbox"/>	15	Standardized patient placement criteria govern the level of care that is provided.	V.A.
X	<input type="checkbox"/>	16	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental health Court's programmatic phase structure.	V.A.
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X	<input type="checkbox"/>	19	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
<input type="checkbox"/>	XX	20	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. WHEN NECESSARY	V.F. VI.G
X	<input type="checkbox"/>	21	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
X	<input type="checkbox"/>	22	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
<input type="checkbox"/>	XX	23	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. JUVENILES	V.I.
X	<input type="checkbox"/>	24	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Mental health Court.	V.J.
<input type="checkbox"/>	XX	25	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental health Court and continuing as necessary throughout their enrollment in the program. JUVENILES	VI.D.
X	<input type="checkbox"/>	26	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
X	<input type="checkbox"/>	27	All Mental health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.

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X		29	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. WHEN APPROPRIATE	VI.L.
X	<input type="checkbox"/>	30	Clients are placed in the program within 50 days of eligibility screening.	
X	<input type="checkbox"/>	31	Team members are assigned to Mental health Court for no less than two years.	
X	<input type="checkbox"/>	32	All team members use electronic communication to contemporaneously communicate about Mental health Court issues.	
X	<input type="checkbox"/>	33	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Mental health Courts.	VIII.F.
X	<input type="checkbox"/>	34	New staff hires receive a formal orientation training on the Mental health Court model and best practices in Mental health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input type="checkbox"/>	XX	35	The Mental health Court has more than 15 but less than 125 active participants. MAX OUT AT 10	IX.A.*
X	<input type="checkbox"/>	36	The Mental health Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	XX	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental health Court. NOT TRACKED FOR JUVENILES	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Mental health Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self- improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	X	1	The Mental health Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
X	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.

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X	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Mental health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Mental health Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
X	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Mental health Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Mental health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Mental health Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Mental health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
X	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental health Court's adherence to best practices and in-program outcomes.	X.F.
X	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Mental health Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
X	<input type="checkbox"/>	16	The Mental health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

**UTAH JUDICIAL COUNCIL**  
**ADULT DRUG COURT CERTIFICATION CHECKLIST**  
 REVISED AND ADOPTED DECEMBER 7, 2020

**COURT LOCATION:** Wasatch County, Heber

**COURT NUMBER:**

**JUDGE NAME:** Brown

**REVIEW DATE:** November, 2022

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

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

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.
X	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*
X	<input type="checkbox"/>	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
X	<input type="checkbox"/>	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
X	<input type="checkbox"/>	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
X	<input type="checkbox"/>	18	The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
X	<input type="checkbox"/>	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
X	<input type="checkbox"/>	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
X	<input type="checkbox"/>	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
X	<input type="checkbox"/>	22	The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
X	<input type="checkbox"/>	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
X	<input type="checkbox"/>	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
X	<input type="checkbox"/>	25	Drug testing is performed at least twice per week.	VII.A.*
X	<input type="checkbox"/>	26	Drug testing is random, and is available on weekends and holidays.	VII.B.*
X	<input type="checkbox"/>	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
X	<input type="checkbox"/>	28	Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
X	<input type="checkbox"/>	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*
X	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
X	<input type="checkbox"/>	31	The program requires a period of at least 90 consecutive days drug-free to graduate.	
X	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
X	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
X	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
X	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
X	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
X	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
X	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
X	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
X	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
X	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
X	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
X	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
X	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
X	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
X	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
X	<input type="checkbox"/>	47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*



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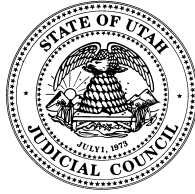
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X	<input type="checkbox"/>	37	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
X	<input type="checkbox"/>	38	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
X	<input type="checkbox"/>	39	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
X	<input type="checkbox"/>	40	The program conducts an exit interview for self-improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
X	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input type="checkbox"/>	XX	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
X	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	XX	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
X	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
X	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
<input type="checkbox"/>	XX	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
X	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
X	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
X	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
X	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
X	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
X	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
<input type="checkbox"/>	XX	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	XX	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.
<input type="checkbox"/>	XX	16	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.

# Tab 5



## Agenda

**Administrative Office of the Courts**

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

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

**MEMORANDUM**

**TO:** Utah Judicial Council

**FROM:** Jim Peters  
Justice Court Administrator

**DATE:** January 5, 2023

**RE:** Recertification of Utah's County Justice Courts

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Pursuant to Rule 9-108(1)(B) of the Code of Judicial Administration, the Board of Justice Court Judges (the "Board") has discussed the applications received for recertification of the county justice courts. For each court, these applications include (i) the judge's affidavit attesting that the court is in compliance with the operating standards required both by statute and by the Judicial Council, (ii) a legal opinion from the county attorney's office (a) informing the governing body as to those operating standards and (b) advising it as to the feasibility of maintaining a justice court, and (iii) a resolution from the governing body committing to abide by those standards and requesting that the court be recertified. Subject to the Judicial Council's approving the waivers described below, the Board recommends that the municipal justice courts set forth on Attachment A be recertified for a four-year term beginning February 1, 2023. This list includes all county justice courts currently operating in the state.

**Garfield County Justice Court – Judge Gary Owens**

As a Class III Justice Court, the Judicial Council's standards require that Garfield County set a trial calendar at least every other week. Because most of the cases that took Garfield County from a Class IV court to a Class III court are handled without the need for a hearing, the court would like to set a second day of court each month only as needed. As such, Judge Owens is requesting that this requirement be waived. The Board is supportive of his request.

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

**Rich County Justice Court – Judge Trevor Cook**

As a Class III Justice Court, the Judicial Council's standards require that Rich County set a trial calendar at least every other week. Because the number of cases filed in the Rich County Justice Court vary dramatically depending on the season, the court would like to set a second day of court each month only as needed. As such, Judge Cook is requesting that this requirement be waived. The Board is supportive of his request.

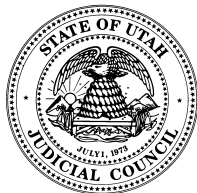
**ATTACHMENT A**  
**COUNTY JUSTICE COURTS**  
**RECOMMENDED FOR RECERTIFICATION**  
**FOR A FOUR-YEAR TERM**  
**BEGINNING FEBRUARY 1, 2023**

1. Beaver County Justice Court (Beaver Precinct)
2. Beaver County Justice Court (Milford Precinct)
3. Beaver County Justice Court (Minersville Precinct)
4. Box Elder County Justice Court
5. Carbon County Justice Court
6. Daggett County Justice Court
7. Davis County Justice Court
8. Duchesne County Justice Court
9. Emery County Justice Court
10. Garfield County Justice Court
11. Grand County Justice Court
12. Iron County Justice Court
13. Juab County Justice Court
14. Kane County Justice Court
15. Millard County Justice Court
16. Morgan County Justice Court
17. Piute County Justice Court
18. Rich County Justice Court
19. Salt Lake County Justice Court
20. San Juan County Justice Court
21. Sanpete County Justice Court
22. Sevier County Justice Court
23. Summit County Justice Court
24. Tooele County Justice Court
25. Utah County Justice Court
26. Wasatch County Justice Court
27. Washington County Justice Court
28. Wayne County Justice Court

# Tab 6



Agenda



## Administrative Office of the Courts

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

January 6, 2023

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

### MEMORANDUM

**TO: Management Committee / Judicial Council**  
**FROM: Keisa Williams**  
**RE: Rule for Final Approval**

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Following a 45-day comment period, the Policy, Planning, and Technology Committee recommends that the following rules be approved as final with an *effective date of May 1, 2023*

- **CJA 3-406. Budget and fiscal management.**  
Proposed amendments incorporate the role of the Budget and Fiscal Management Committee and make other improvements to clarify the budget process.
- **CJA 3-104. Presiding judges.**  
Proposed amendments require presiding judges to notify the appropriate state level administrator when a judge fails to submit a required case under advisement statement. If a judge fails to submit a required statement for two consecutive months, the state level administrator must notify the Management Committee.

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 3-104. Presiding judges****Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

**Applicability:**

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

**Statement of the Rule:****(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

**(1)(B) Associate presiding judge.**

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

**(2) Court organization.****(2)(A) Court en banc.**

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) **Absence of presiding judge.** When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

### (3) **Administrative responsibilities and authority of presiding judge.**

#### (3)(A) **General—Caseload—Appeals**

(3)(A)(i) **Generally.** The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

#### (3)(B) **Coordination of judicial schedules.**

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

**(3)(C) Authority to appoint senior judges.**

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.

**(3)(D) Court committees.** The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

**(3)(E) Outside agencies and the media.**

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

**(3)(F) Docket management and case and judge assignments.**

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

151 (3)(G) **Court executives.**

152  
153 (3)(G)(i) The presiding judge shall review the proposed appointment of the court  
154 executive made by the State Court Administrator and must concur in the  
155 appointment before it will be effective. The presiding judge shall obtain the  
156 approval of a majority of the judges in that jurisdiction prior to concurring in the  
157 appointment of a court executive.

158  
159 (3)(G)(ii) The presiding judge for the respective court level and the state level  
160 administrator shall jointly develop an annual performance plan for the court  
161 executive.

162  
163 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding  
164 judge in the preparation of an evaluation of the court executive's performance for  
165 the previous year, also taking into account input from all judges in the district.

166  
167 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the  
168 court executive, including coordination of annual leave.

169  
170 (3)(G)(v) Pursuant to Council policy and the direction of the state level  
171 administrator, the court executive has the responsibility for the day-to-day  
172 supervision of the non-judicial support staff and the non-judicial administration of  
173 the court. The presiding judge, in consultation with the judges of the jurisdiction,  
174 shall coordinate with the court executive on matters concerning the support staff  
175 and the general administration of the court including budget, facility planning,  
176 long-range planning, administrative projects, intergovernmental relations and  
177 other administrative responsibilities as determined by the presiding judge and the  
178 state level administrator.

179  
180 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of  
181 courtrooms and facilities.

182  
183 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in  
184 consultation with the presiding judge, shall:

185  
186 (3)(I)(i) coordinate the compilation of management and statistical information  
187 necessary for the administration of the court;

188  
189 (3)(I)(ii) establish policies and procedures and ensure that court personnel are  
190 advised and aware of these policies;

191  
192 (3)(I)(iii) approve proposals for automation within the court in compliance with  
193 administrative rules.

194  
195 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall  
196 oversee the development of the budget for the court. In contract sites, the court  
197 executive shall supervise the preparation and management of the county budget for the  
198 court on an annual basis and in accordance with the Utah Code.

199  
200 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court  
201 fails to comply with a reasonable administrative directive of the presiding judge,

interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

**(3)(L) Cases under advisement.**

(3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows:

(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;

(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or

(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.

A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.

The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.

(3)(L)(ii) Once a month, each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Management Committee Council.

(3)(L)(v) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If a judge fails to submit a statement for two consecutive months, the state level administrator shall notify the Management Committee Council.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Effective May/November 1 June 28, 202\_1

**Rule 3-406. Budget and fiscal management.****Intent:**

To ~~develop and maintain~~accomplish the ~~policies and programs~~mission of the judiciary through sound fiscal management.

To provide ~~for~~ sound fiscal management ~~through the coordinated and cooperative effort of central and local authorities within~~by financially supporting both existing programs and working with the judiciary; to create new programs that enable the Courts to effectively provide an open, fair, efficient and independent system for advancement of justice under the law.

To maintain accountability for appropriated funds, and to maintain a balanced budget.

To cooperate with the Governor and the Legislature in managing the fiscal resources of the state.

**Applicability:**

This rule shall apply to the management of all funds appropriated by the state to the judiciary; as well as grant funds used by the judiciary.

**Statement of the Rule:**

(1) ~~Fiscal offices and programs and program directors established.~~ For purposes of fiscal management, the judiciary is divided into offices (which generally provide services to other areas within the judiciary) and ~~programs (which generally provide services to court patrons).~~ Each office and program budget is managed by a ~~program director~~budget manager who has approval authority from the Administrative Office of the Courts finance group ("AOC Finance") to authorize disbursements. This approval authority is granted based on AOC Finance's periodic review to ensure adequate separation of duties (as defined by generally accepted accounting principles) for each budget manager. The budget manager is designated by the state court administrator ~~and approved by their~~designee. AOC Finance periodically reports to the Budget and Fiscal Management Committee ("BFMC") on the adequacy of separation of duties. The budget of a geographic division shall be managed by the court executive subject to the general supervision of the program director.

**(2) Budget management.**

(2)(A) Responsibility of the ~~council~~Judicial Council ("Council"). The responsibility of the Council is to:

(2)(A)(i) cooperate with the Governor and the Legislature in managing the fiscal resources of the state;

(2)(A)(ii) assure that the budget of the judiciary remains within the limits of the appropriation set by the Legislature; and



(2)(A)(iii) allocate funds as required to maintain approved programs and to assure a balanced judicial budget.

**(2)(B) Responsibility of the state court administrator.** It is the responsibility of the state court administrator to:

(2)(B)(i) implement the directives of the Council;

(2)(B)(ii) ~~direct the management of~~manage the judiciary's budget, ~~including recommendations to reduce or redirect allocations~~; and

(2)(B)(iii) negotiate on behalf of the Council the position of the judiciary with the executive and legislative branches.

**(2)(C) Responsibility of ~~the administrative office~~. AOC Finance.** It is the responsibility of ~~the administrative office~~AOC finance to:

(2)(C)(i) ~~clear all warrants and other authorizations for the~~ensure timely payment of all accounts payable ~~for the availability of funds~~;

(2)(C)(ii) monitor all expenditures and collections versus budget;

(2)(C)(iii) provide monthly ~~expenditure~~financial reports ~~by court to court executives, program directors, the state court administrator, Boards of Judges~~budget managers and the ~~Council~~BFMC; and

(2)(C)(iv) develop a manual of procedures ("Accounting Manual") to govern ~~the payment of~~accounts receivable, accounts payable, trust accounts, the audit thereof, and the audit ~~thereof of administrative procedures generally~~. The procedures shall be in conformity with generally accepted principles of budgeting and accounting and budget management shall, at a minimum, conform to the requirements of this Code and state law.

**(2)(D) Responsibility of the ~~program directors~~. budget managers.** Within their respective ~~programs~~areas of responsibility, it is the responsibility of the ~~program directors~~budget managers to:

(2)(D)(i) comply with the directives of the Council and the state court administrator;

(2)(D)(ii) administer the reduction or redirection of allocations;

(2)(D)(iii) monitor all expenditures and collections versus budget;

(2)(D)(iv) supervise and manage ~~court~~ budgets in accordance with the ~~manual of procedures~~ Accounting Manual; and

(2)(D)(v) develop recommendations for ~~fiscal~~ judicial priorities, ~~to be funded by the allocation of funds~~ legislature, and ~~the reduction changes to programs and/or redirection of offices that create efficiencies that reduce or redirect~~ allocations.

(2)(E) **Responsibility of court executives.** Within their respective courts, it is the responsibility of court executives to:

(2)(E)(i) comply with the directives of the Council, the state court administrator, ~~and the program director or designee~~, and to consult with the presiding judge and the individual judges of that jurisdiction concerning budget management;

(2)(E)(ii) develop work programs that encumber no more funds than may be allocated, including any reduction in allocation;

(2)(E)(iii) amend work programs as necessary to reflect changes in priorities, spending patterns, or allocation;

(2)(E)(iv) credit and debit accounts that most accurately reflect the nature of the planned expenditure;

(2)(E)(v) authorize expenditures;

(2)(E)(vi) prepare warrants and other authorizations for payment of accounts payable for submission to the ~~Administrative Office~~ AOC finance;

(2)(E)(vii) monitor all expenditures; and ~~revenues versus budget; and~~

(2)(E)(viii) develop recommendations for ~~fiscal~~ judicial priorities, ~~to be funded by the allocation of funds~~ legislature, and ~~the reduction changes to programs and/or redirection of offices that create efficiencies that reduce or redirect~~ allocations.

(2)(F) **Process.** After the legislative general session the ~~BFMC and~~ state court administrator shall consider all sources of funds and all obligated funds and develop a recommended spending plan that most closely achieves the priorities established by the Council at the prior annual planning meeting. The ~~state court administrator~~ BFMC shall ~~review~~ present the recommended spending plan ~~with the Management Committee and present it~~ to the ~~Judicial~~ Council for approval.

### (3) Budget development.

(3)(A) **Responsibility of the Council.** It is the responsibility of the Council to:

(3)(A)(i) establish responsible ~~fiscal~~judicial priorities that best enable the judiciary to achieve the goals of its policies;

(3)(A)(ii) develop the budget of the judiciary based upon the needs of organizations and the priorities established by the Council;

(3)(A)(iii) communicate the budget of the judiciary to the executive and legislative branches; and

(3)(A)(iv) allocate funds to the ~~geographic divisions of courts~~budget managers in accordance with priorities established by the Council.

**(3)(B) Responsibility of the juvenile, district, and appellate boards (“Boards”).** It is the responsibility of the Boards to:

(3)(B)(i) develop recommendations for ~~funding~~judicial priorities; and

(3)(B)(ii) review, modify, and approve program budgets for submission to the ~~Council~~BFMC.

**(3)(C) Responsibility of the state court administrator.** It is the responsibility of the state court administrator to:

(3)(C)(i) negotiate on behalf of the Council the position of the judiciary with the executive and legislative branches; ~~and~~

(3)(C)(ii) implement the Council’s fiscal priorities and allocation of funds; ~~and~~

(3)(C)(iii) ~~work with the BFMC and the Boards of judges to manage the judiciary's budget, including recommending (1) judicial priorities to be funded by the legislature, (2) changes to programs and/or offices that create efficiencies that reduce or redirect allocations.~~

**(3)(D) Responsibility of ~~the administrative office~~AOC Finance.** It is the responsibility of ~~the Administrative Office~~AOC Finance to:

(3)(D)(i) develop a schedule for the timely completion of the budget process, including the completion of all intermediate tasks;

(3)(D)(ii) assist program ~~directors~~managers and court executives in the preparation of budget requests; and

(3)(D)(iii) compile the budget of the judiciary.

(3)(E) **Responsibility of the ~~program directors~~ budget managers.** Within their respective ~~programs~~ areas of responsibility, it is the responsibility of ~~program directors~~ budget managers to review, modify, and approve budget requests.

(3)(F) **Responsibility of court executives.** Within their respective courts, it is the responsibility of court executives to:

(3)(F)(i) work closely with presiding judges, judges, and staff to determine the needs of the organization; and

(3)(F)(ii) develop a budget request that adequately and appropriately meets those needs.

**(3)(G) Process.**

(3)(G)(i) Each Board of Judges, each court and committee and each department of the administrative office of the courts may develop, prioritize and justify a budget request. The courts shall submit their requests to the appropriate Board ~~of Judges~~. The committees and the departments of the AOC shall submit their requests to the state court administrator.

(3)(G)(ii) The Boards shall consolidate and prioritize the requests from the courts ~~and the requests originated by the Board. The state court administrator shall consolidate and prioritize the requests from the~~ committees and departments. AOC Finance shall consolidate all of the Boards' prioritized lists for review by the BFMC.

(3)(G)(iii) The ~~state court administrator~~ BFMC shall review and analyze all prioritized budget requests and develop a recommended budget request and funding plan. The ~~state court administrator~~ BFMC shall review the analysis and the recommended budget request and funding plan with the Council.

(3)(G)(iv) At its annual planning meeting the Council shall consider all prioritized requests and the analysis and recommendations of the ~~state court administrator~~ BFMC and approve a prioritized budget request and funding plan for submission to the governor and the legislature.

**(4) General provisions.**

(4)(A) Appropriations dedicated by the Legislature or allocations dedicated by the Council shall be expended in accordance with the stated intent.

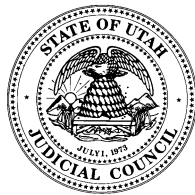
(4)(B) All courts and the ~~Administrative Office~~ AOC shall comply with the provisions of state law and the ~~manual of procedures~~ Accounting Manual.

(4)(C) Reductions in allocations, reductions in force, and furloughs may be ordered by the state court administrator with notice to the Council. In amending the work program to reflect a budget cut, reductions in force and furloughs shall be used only when absolutely necessary to maintain a balanced budget. If reductions in force are necessary, they shall be made in accordance with approved personnel procedures. If furloughs are necessary, they should occur for no more than two days per pay period.

**Effective: ~~5/1/2020~~ May 1, 2023**

# Tab 7

Agenda



## Administrative Office of the Courts

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

December 16, 2022

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

### MEMORANDUM

**TO:** Judicial Council and Management Committee

**FROM:** Chris Talbot, Standing Committee for Facilities Planning

**RE:** New committee member appointments

The Committee will need to replace the Juvenile Court Judge position and the District Court Judge position at the April committee meeting with Judge Noland and Judge Brady's terms expiring. The Juvenile Court bench has nominated Judge Troy Little from the 5th District. The District Court bench has nominated Judge Ann Marie McIff Allen from the 5th District.

The Facilities Standing Committee has agreed unanimously to forward these recommendations to the Management Committee and Judicial Council and for approval.

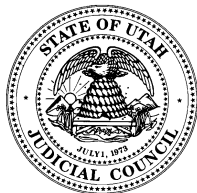
**Current members:**

Vacant in April – Currently Judge James Brady, Chair (4th District Court Provo)  
Vacant in April – Currently Judge Jeff Noland (2nd District Juvenile Court Ogden)  
Judge Michele Christiansen Forster (Court of Appeals)  
Judge Lee Edwards (Logan City Justice Court)  
Ron Gordon (State Court Administrator)  
Brian Bales (Retired DFCM PM)  
Vacant (Public Member / Architect)  
Christopher Morgan (TCE 6th District)  
Chris Palmer (AOC Security Director)

Thank you

**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.**

## Agenda



# Administrative Office of the Courts

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

December 29, 2022

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

## MEMORANDUM

**TO:** Management Committee of the Judicial Council

**FROM:** Nathanael Player, on behalf of the Forms Committee

**RE:** Forms Committee membership

The Management Committee is asked to approve Judge Koch as a member of the Forms Committee to fill the vacancy left by Judge Chon. The Board of District Court Judges nominated Judge Koch.

The table below details the current and proposed composition of the committee, consistent with CJA 1-205(1)(B)(xiii).

Name	Position	Comment
Professor Randy Dryer	Chair, and educator from a paralegal program or law school	
Judge Bagley	One of two district court judges	
Judge Koch	One of two district court judges	If approved
Commissioner Minas	Court commissioner	
Judge Bartholomew	Juvenile court judge	
Judge Birch	Justice court judge	
Guy Galli	Court clerk	
Bret Hayman	Appellate court staff attorney	
Nathanael Player	Self-Help Center representative	
Kaden Taylor	State Law Librarian	
Keri Sargent	District court administrator	
Stewart Ralphs	Legal services org. that serves low-income clients	
Amber Alleman	Paralegal	
Professor Scott Jarvis	One person skilled in linguistics or communication	
David Head	Representative from the Utah State Bar	
AJ Torres	LPP Administrator	

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



# Tab 8

Agenda



## Administrative Office of the Courts

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

January 6, 2023

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

### MEMORANDUM

**TO: Management Committee / Judicial Council**  
**FROM: Keisa Williams**  
**RE: Rules for Public Comment**

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

#### **CJA 3-403. Judicial branch education**

In February 2022, the Office of Fairness and Accountability (OFA) made a policy recommendation to the Judicial Council to address workplace and judicial climate. One of the recommendations directly addressed judicial branch education rule 3-403. The OFA recommended that judicial officers and state court employees receive training on ethics, diversity and inclusion, harassment and elimination of bias. The Standing Education Committee recommends the following proposed amendments to rule 3-403:

- Annually require judicial officers and court employees to complete training on harassment and abusive conduct, ethics, inclusion, and elimination of bias;
- Change “judges, commissioners” to “judicial officers” throughout the rule; and
- Update language in 3-403(A)(4)(A)(ii) to better reflect current onboarding and orientation practices of court employees.

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 3-403. Judicial branch education.****Intent:**

To establish the Judicial Branch Education Committee's responsibility to develop and evaluate a comprehensive education program for all ~~judges, commissioners~~ **judicial officers** and court staff.

To establish education standards for ~~judges, commissioners~~ **judicial officers** and court staff, including provisions for funding and accreditation for educational programs.

To ensure that education programs, including opportunities for job orientation, skill and knowledge acquisition, and professional and personal development, are available to all members of the judicial branch and that such programs utilize the principles of adult education and focus on participative learning.

To emphasize the importance of participation by all judicial branch employees in education and training as an essential component in maintaining the quality of justice in the Utah courts.

**Applicability:**

This rule shall apply to all ~~judges, commissioners~~ **judicial officers** and court staff, except seasonal employees and law clerks.

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

(1)(A) **Judicial branch education committee.** The Judicial Branch Education Committee shall submit to the Council for approval proposed policies, standards, guidelines, and procedures applicable to all judicial branch education activities. It shall evaluate and monitor the quality of educational programs and make changes where appropriate within the approved guidelines for funding, attendance, and accreditation.

(1)(B) **Responsibilities of members.** Committee members shall propose policies and procedures for developing, implementing, and evaluating orientation, continuing skill development, and career enhancement education opportunities for all judicial branch employees; formulate an annual education plan and calendar consistent with the judicial branch education budget; and serve as advocates for judicial branch education, including educating the judiciary about the purpose and functions of the Committee.

**(1)(C) Committee meetings.**

(1)(C)(i) The Committee shall meet twice a year. Additional meetings may be called as necessary. A majority of voting members in attendance is required for official Committee action.

(1)(C)(ii) The chairperson may recommend to the Council that a Committee member be replaced if that member is absent without excuse from two consecutive Committee meetings or fails to meet the responsibilities of membership as outlined in paragraph (1)(B).

**(2) Administration.**

**Judicial Education Officer.** The Judicial Education Officer, under the direction of the Court Administrator, shall serve as staff to the Committee and be responsible for the administration of the judicial education program consistent with this rule.

**(3) Education Standards for ~~judges and court commissioners~~ judicial officers.**

**(3)(A) ~~Program~~ Requirements for judicial officers (judges, court commissioners, active senior judges and active senior justice court judges).**

**(3)(A)(i) ~~All judges and court commissioners~~ new judicial officers** shall participate in the first designated orientation program offered after the date the judge is administered the oath of office, unless attendance is excused for good cause by the Management Committee.

All ~~judges, court commissioners, active senior judges, and active senior justice court judges~~ **judicial officers** shall complete 30 hours of pre-approved education annually, to be implemented on a schedule coordinated by the Committee. **To satisfy annual program requirements judicial officers will complete training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.**

~~Judges of courts of record and court commissioners~~ **Judicial officers** may attend a combination of approved local, state, or national programs. Active and inactive senior judges and retired judges may attend approved local or state programs and the annual Utah Judicial Conference, but an inactive senior judge or retired judge must pay all expenses.

**(3)(A)(ii) Active senior judge.** If an active senior judge applies to be reappointed and will have completed at least 60 total education hours in the two years preceding the effective date of reappointment, the Management Committee may, for good cause shown, excuse the judge from having to complete the annual 30 hour education requirement.

**(3)(A)(iii) Inactive senior judges and retired judges.** If an inactive senior judge or a retired judge applies to be an active senior judge, the judge shall demonstrate that:

(3)(A)(iii)(a) less than three years has passed since he or she last complied with the continuing education requirements of an active senior judge;

(3)(A)(iii)(b) he or she has complied with the MCLE requirements of the Utah State Bar for at least three years before the application;

(3)(A)(iii)(c) he or she has attended 30 hours of approved judicial education within one year before the application; or

(3)(A)(iii)(d) he or she has attended the new judge orientation for judges of the courts of record within one year before the application.

(3)(B) **Program components.** Education programs for ~~judges and court commissioners~~ **judicial officers** shall include: a mandatory new judge orientation program; a variety of programs addressing substantive and procedural law topics, aimed at skill and knowledge acquisition; and programs geared to professional and personal development, to meet the continuing needs of ~~judges and court commissioners over the long term.~~ **judicial officers.**

(3)(C) **Annual conferences.** Justice court judges and active senior justice court judges shall attend the annual justice court conference unless excused by the Board of Justice Court Judges for good cause. Because the annual judicial conference represents the only opportunity for judges to meet and interact as a group and to elect their representatives, ~~judges, active senior judges and court commissioners of the courts of record~~ **judicial officers** are strongly encouraged to attend that conference.

#### (4) **Standards for court staff.**

##### (4)(A) **State employees.**

(4)(A)(i) **Program requirements.** All court staff employed by the state shall complete 20 hours of approved coursework annually. ~~To satisfy annual program requirements state employees must complete training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.~~

(4)(A)(ii) **Program components.** Education programs for court staff employed by the state shall include: ~~on-the-job orientation onboarding~~ for new employees as well as ~~semi-annual Orientation Academies~~ **new employee orientation**; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth within the organization.

(4)(B) **Local government employees.**

(4)(B)(i) **Program requirements.** All court staff employed by the justice courts shall complete 10 hours of approved coursework annually. ~~All other court staff employed by local government shall complete 20 hours of approved coursework annually.~~

(4)(B)(ii) **Program components.** Education programs for court staff employed by local government shall include: annual training seminar; skill development programs that teach technical and job-related competencies; and enhancement programs that promote personal and professional growth. ~~Professional and personal development programs may include ethics, elimination of bias, harassment prevention and diversity and inclusion.~~

(5) **Reporting.**

(5)(A) ~~Judges, commissioners~~ **Judicial officers** and court staff governed by these standards shall report participation in education programs on a form developed by the Committee.

(5)(B) For court staff, compliance with judicial branch education standards shall be a performance criterion in the evaluation of all staff.

(5)(B)(i) Supervisory personnel are responsible to ensure that all staff have an opportunity to participate in the required education. Failure of a supervisor to meet the minimum education standards or to provide staff with the opportunity to meet minimum education standards will result in an unsatisfactory performance evaluation in the education criterion.

(5)(B)(ii) Failure of staff to meet the minimum education requirements will result in an unsatisfactory evaluation on the education criterion unless the employee provides documented reasons that the employee's failure to meet the education standards is due to reasons beyond the employee's control.

(6) **Credit.** Judicial education procedures shall include guidelines for determining which programs qualify as approved education within the meaning of these standards.

(7) **Funding.**

(7)(A) **Budget.** In preparing its annual request for legislative appropriations, the Council shall receive and consider recommendations from the Committee. The Committee's annual education plan shall be based upon the Council's actual budget allocation for judicial education.

(7)(B) **In-state education programs.** Judicial branch funds allocated to in-state judicial education shall first be used to support mandatory in-state orientation programs for all judicial branch employees and then for other education priorities as established by the Committee with input from the Boards of Judges and Administrative Office.

(7)(C) **Out-of-state education programs.** To provide for diverse educational development, to take advantage of unique national opportunities, and to utilize education programs which cannot be offered in-state, the annual education plan shall include out-of-state education opportunities. The Committee shall approve national education providers and shall include in the education procedures, criteria to be applied by the Administrative Office to out-of-state education requests. Criteria shall include relevance to the attendee's current assignment and attendance at in-state programs. Disagreement with a decision to deny an out-of-state education request may be reviewed by a quorum of the Committee at the applicant's request.

(7)(D) **Tuition, fees, and travel.** The Committee shall develop policies and procedures for paying tuition, fees, per diem, and travel for approved programs. State funds cannot be used to pay for discretionary social activities, recreation, or spouse participation. The Committee may set financial limits on reimbursement for attendance at elective programs, with the individual participant personally making up the difference in cost when the cost exceeds program guidelines.

**(8) Mentoring.**

(8)(A) Within seven business days after a new district or juvenile judge has been sworn in, the Presiding Judge shall appoint a mentor to the new judge.

(8)(B) Within fourteen business days after a new district or juvenile judge has been sworn in, the mentor and the new judge shall meet and review the Judicial Mentoring Guidelines and Best Practices Recommendations, complete the Mentors' Checklist contained therein and the mentor, within that same fourteen business day period, shall provide the completed Mentor's Checklist to the Judicial Education Officer.

Effective: May/November 1, 202\_0