

**JUDICIAL COUNCIL
AGENDA**

May 20, 1997

Eighth Judicial District Court
147 East Main Street
Vernal, Utah

<u>Item:</u>	<u>Time:</u>	<u>Subject:</u>	<u>Presenter:</u>
1.	9:00 a.m.	Continental Breakfast	
2.	9:30 a.m.	Eighth Judicial District Staff Presentation	John Greene Court Executive Joanne Mckee Clerk of Court, District Court Susan Register Clerk of Court, Juvenile Court Probation Chief
3.	10:00 a.m.	Site Visits	
		a) Vernal	
		b) Roosevelt	
		c) Duchesne	
4.	12:00 p.m.	Adjourn	



State of Utah

JUDICIAL CONDUCT COMMISSION

645 South 200 East #104
Salt Lake City, Utah 84111
801\533-3200
Fax 801\533-3208

Steven H. Stewart
Executive Director

May 15, 1997

Daniel S. Becker
State Court Administrator
230 South 5th East, Suite 230
Salt Lake City, UT 84102

RE: Judicial Conduct Commission

Dear Dan:

Enclosed are (1) a summary of recent Judicial Conduct Commission activity; (2) the Commission's May 7, 1997 statistical report; (3) an American Judicature Society summary of the makeup of the judicial conduct organizations in all 50 states; (4) a chart showing the number of judges on the judicial conduct organizations in all 50 states; and (5) an article from the *Salt Lake Tribune* summarizing when judicial misconduct proceedings are made public in all 50 states. If you think it would be helpful, please make copies of the enclosures for the Judicial Council members and distribute them before the May 19 meeting. I understand that Cindy Williamson has put me on the agenda for 1:50 p.m.

Please call me if you have any questions about this letter or the enclosed information.

Sincerely,

JUDICIAL CONDUCT COMMISSION

Steven H. Stewart
Executive Director

Enclosures



RECENT JUDICIAL CONDUCT COMMISSION ACTIVITY

May 15, 1997

1. May 7, 1997 Statistical Report (self explanatory).

2. Adoption of "complaint" definition. During its May 13, 1997 meeting, the Commission adopted the following definition of "complaint." This definition is identical to the definition of "complaint" contained in the American Bar Association's *Model Rules for Judicial Disciplinary Enforcement* (1994 edition), except that the Commission used "executive director" instead of "disciplinary counsel" to identify the person whose written statement would constitute the charges if there is no written statement from another person:

Information in any form from any source received by the commission that alleges or from which a reasonable inference can be drawn that a judge committed misconduct or is incapacitated. If there is no written complaint from another person, the executive director's written statement of the allegations constitutes the complaint.

3. The Judicial Council's request that the Commission propose legislation adding one juvenile court judge and one justice court judge to its membership. The Judicial Council's request that the Commission propose legislation adding one juvenile court judge and one justice court judge to its membership was addressed during the Commission's May 13, 1997 meeting. Before voting on or participating in any additional discussion of this proposal, the commissioners wanted to know (1) the makeup of the judicial conduct organizations of all 50 states; and (2) the point at which allegations of judicial misconduct become public in all 50 states. This information will be provided to the commissioners within the next few days, and the matter will be placed on the agenda for the Commission's June 23, 1997 meeting.

**JUDICIAL CONDUCT COMMISSION
STATISTICAL REPORT**

May 7, 1997

TOTAL NUMBER OF OPEN FILES: 47

FORMAL COMPLAINTS: 6

AWAITING FINAL ORDER FROM SUPREME COURT: 2

District - 1 Juvenile - 1

AWAITING DISPOSITION BY JCC: 4

District - 1 Justice - 2 Juvenile - 1

FILES UNDER PRELIMINARY REVIEW: 32

District - 23 Juvenile - 3 Justice - 4 Pro Tem - 2

FILES UNDER PRELIMINARY INVESTIGATION: 9

District - 2 Juvenile - 3 Justice - 4 Pro Tem - 0

FILES CLOSED SINCE JULY 1, 1996: 63

FILES OPENED SINCE JULY 1, 1996: 60

NET INCREASE (DECREASE) IN CASE LOAD SINCE JULY 1, 1996: (3)

TOTAL WRITTEN COMPLAINTS FILED IN FY 95: 115

TOTAL WRITTEN COMPLAINTS FILED IN FY 96: 84

SANCTIONS IMPOSED IN FY 96 (JULY 1, 1995-JUNE 30, 1996):

SUSPENSION AND CENSURE: 1 (REMANDED BY SUPREME COURT)

CENSURE: 1 (REMANDED BY SUPREME COURT)

PUBLIC REPRIMAND: 1 (PENDING SUPREME COURT REVIEW)

PRIVATE REPRIMAND: 3

DISMISSED WITH ADMONITION: 5

SANCTIONS IMPOSED TO DATE IN FY 97 (JULY 1, 1996-May 7, 1997):

STIPULATED CENSURE: 1

PUBLIC REPRIMAND: 2 (PENDING SUPREME COURT REVIEW)

STIPULATED PUBLIC REPRIMAND: 2

PRIVATE REPRIMAND: 2

DISMISSED WITH ADMONITION: 3

DISMISSED WITH COMMENT: 1

Table 2: Commission membership

Two tier commissions are marked with an *

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
Alabama					
Judicial Inquiry Commission	9	1 appellate judge 2 circuit judges 1 district judge	Appt'd. by supreme court Appt'd. by circuit judges association Appt'd. by lieutenant governor, subject to senate confirmation	4	No provision
		2 attorneys	Appt'd by state bar		
		3 public members	Appt'd. by governor, subject to senate confirmation		
Court of the Judiciary	9	1 appellate judge 2 circuit judges 1 district judge	Selected by supreme court Selected by circuit judges association Selected by district judges association	No provision	
		2 attorneys	Selected by state bar		
		3 public members	2 appt'd. by governor, subject to senate confirmation 1 appt'd. by lieutenant governor, subject to senate confirmation		
Alaska					
Commission on Judicial Conduct	9	3 judges	Elected by state court judges	4	No provision
		3 attorneys	Appt'd. by governor (upon recommendation by state bar) w/approval of legislature		
		3 public members	Appt'd. by governor w/approval of legislature		

Revised February 1997

Arizona					
Commission on Judicial Conduct	11	6 judges 2 attorneys 3 public members	Appt'd. by supreme court Appt'd. by state bar Appt'd. by governor	6	No provision
Arkansas					
Judicial Discipline and Disability Commission	9	3 judges 3 attorneys 3 public members	Appt'd. by supreme court 1 appt'd. by atty. general 1 appt'd. by president of senate 1 appt'd. by speaker of house Appt'd. by governor	6	2
California					
Commission on Judicial Performance	11	3 judges 2 attorneys 6 public members	Appt'd. by supreme court Appt'd. by governor 2 appt'd. by governor 2 appt'd. by speaker of the assembly 2 appt'd. by state senate committee on rules	2	2
Colorado					
Commission on Judicial Discipline	10	4 judges 2 attorneys 4 public members	Appt'd. by supreme court Governor appoints public members & attorneys w/approval of the senate	4	No provision

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
Connecticut Judicial Review Council	12	3 judges	Appt'd. by governor, from a list of 6 judges selected by the members of the superior court, with approval of general assembly	4	Prohibited
		3 attorneys	Appt'd. by governor with approval of general assembly		
		6 public members	Appt'd. by by governor with approval of general assembly		
Delaware* Preliminary Investigatory Committee	6	4 attorneys (at least)	Appt'd. by chief justice w/approval of court	3	No provision
		2 public members (at most)	Judiciary		
Board of Examining Officers	1 or more	Active or retired judge(s)	Appt'd. by Court on the Judiciary	Ad hoc	
Court on the Judiciary	7	7 judges	By virtue of office held: 1—chief justice 4—associate justices 1—chancellor 1—presiding judge, Superior Court	Equal to	

District of Columbia					
Commission on Judicial Disabilities and Tenure	7	1 judge 2 attorneys 1 attorney 2 public members	Appt'd. by chief judge of U.S. District Court for D.C. 2 appt'd. by D.C. bar 1 appt'd. by mayor of D.C. 1 appt'd. by mayor of D.C. 1 appt'd. by city council of D.C.	President's appointee receives a 5-yr. term, all other members receive 60-yr. terms.	No provision
		All of above to be residents of D.C.			
Florida					
Judicial Qualifications Commission	15	2 circuit court judges 2 district court of appeals judges 2 county court judges 4 attorneys 5 public members	Selected by circuit court judges Selected by district court of appeals judges Selected by county court judges Appt'd. by governing body of state bar Appt'd. by governor	6	No provision
The commission chair will appoint members to the investigative panel or the hearing panel. The investigative panel will have 4 judges, 2 attorneys, and 3 public members. The hearing panel will have 2 judge members, 2 attorney members, and 2 public members.					
Georgia					
Judicial Qualifications Commission	7	2 judges 3 attorneys 2 public members	Selected by supreme court Elected by board of governors of state bar Appt'd. by governor	4	No provision
Hawaii					
Commission on Judicial Conduct	7	3 attorneys 4 public members	All members appt'd. by supreme court	3	No provision

Table 2: Commission membership / 15

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
Idaho					
Judicial Council	7	2 judges 2 attorneys 3 public members	1 chief justice by virtue of office 1 appt'd. by state bar with consent of senate Appt'd. by state bar with consent of senate Appt'd. by governor with consent of senate	6 ¹	No provision
Illinois*					
Judicial Inquiry Board	9	2 judges 3 attorneys 4 public members	Appt'd. by supreme court Appt'd. by governor Appt'd. by governor	4	2
Illinois Courts Commission	5	5 judges	3 selected by supreme court 2 selected by appellate court	No provision	
Indiana					
Judicial Qualifications Commission	7	1 judge 3 attorneys 3 public members	Chief justice by virtue of office Elected by "those admitted to the practice of law" Appt'd. by governor	3	Prohibited ²
Iowa					
Commission on Judicial Qualification	7	1 judge 2 attorneys 4 public members	Appt'd. by chief justice Appt'd. by chief justice Appt'd. by governor w/approval of senate	6	Prohibited

1. Except chief justice, whose office rotates about every two years.
 2. Unless first elected or appointed to fill a vacancy for less than one year.

Kansas					
Commission on Judicial Qualifications	9	4 judges 3 attorneys 2 public members	All members appt'd. by supreme court	4	No provision
Kentucky					
Judicial Retirement and Removal Commission	6	3 judges 1 attorney 2 public members	1 elected from & by court of appeals judges 1 elected from & by circuit court judges 1 elected from & by district court judges Appt'd. by state bar Appt'd. by governor from the two political parties having largest number of registered voters in the state	4	No provision
Louisiana					
The Judiciary Commission	9	3 judges 3 attorneys 3 public members	Appt'd. by supreme court Appt'd. by Conference of Court of Appeals Judges Appt'd. by District Judges Association	4	Prohibited
Maine					
Committee on Judicial Responsibility and Disability	7	2 judges 2 attorneys 3 public members	Appt'd. by Supreme Judicial Court Appt'd. by Supreme Judicial Court on governor's recommendation Appt'd. by Supreme Judicial Court on governor's recommendation	6	Prohibited
Maryland					
Commission on Judicial Disabilities	11	3 judges 3 attorneys 5 public member	All members appointed by governor	4	2

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
Massachusetts Commission on Judicial Conduct	9	3 judges 3 attorneys 3 public members	Appt'd. by Supreme Judicial Court Appt'd. by chief adm. justice of the trial court Appt'd. by governor	6	Prohibited
Michigan Judicial Tenure Commission	9	5 judges 2 attorneys (2/one a judge) 2 public members	1 elected by appellate judges 1 elected by circuit judges 1 elected by probate judges 1 elected by courts of limited jurisdiction judges 1 elected by state bar Elected by members of state bar Appt'd. by governor	3	No provision
Minnesota Board on Judicial Standards	10	4 judges 2 attorneys 4 public members	All members appointed by governor with consent of Senate, except that Senate confirmation is not required for judicial members	4	2
Mississippi Commission on Judicial Performance	7	4 judges 1 attorney 2 public members	1 appt'd. by Conference of Circuit Court Judges 1 appt'd. by Conference of Chancery Court Judges 1 appt'd. by Conference of County Court Judges 1 appt'd. by Mississippi Justice Court Officers Association Appt'd. by governing board of state bar Appt'd. by chief justice of supreme court	6	Prohibited

2.1

THE JUDICIAL SOCIETY OF MISSISSIPPI

Missouri					
Commission on Retirement, Removal and Discipline	6	2 judges 2 attorneys 2 public members	1 selected by court of appeals judges 1 selected by circuit court judges Appt'd. by governing board of state bar Appt'd. by governor	6	Prohibited
Montana					
Judicial Standards Commission	5	2 judges 1 attorney 2 public members	Elected by district court judges Appt'd. by supreme court Appt'd. by governor	4	No provision
Nebraska					
Commission on Judicial Qualifications	10	4 judges 3 attorneys 3 public members	1 chief justice by virtue of office held 3 appt'd. by chief justice Appt'd. by executive council of state bar Appt'd. by governor	4 ³	
Nevada					
Commission on Judicial Discipline	7	2 judges 2 attorneys 3 public members	Appt'd. by supreme court Appt'd. by state bar Appt'd. by governor	4	No provision
New Hampshire					
Commission on Judicial Conduct	9	4 judges 2 attorneys 3 public members	All members appointed by supreme court	4	Unlimited

3. Chief Justice's term shall be permanent.

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
<u>New Jersey</u> Advisory Committee on Judicial Conduct	9	<p>"At least" 2 judges</p> <p><i>No fewer</i> → "Not less than" 3 attorneys</p> <p>"Not more than" 4 public members</p>	All members appointed by supreme court	3	Court determines
<u>New Mexico</u> Judicial Standards Commission	9	<p>2 justices or judges</p> <p>2 attorneys</p> <p>5 public members</p>	<p>App't'd. by supreme court</p> <p>App't'd. by board of commissioners of state bar</p> <p>App't'd. by governor</p>	<p>4</p> <p>4</p>	No provision
<u>New York</u> State Commission on Judicial Conduct	11	<p>4 judges</p> <p>1 attorney</p> <p>2 public members</p> <p>4 additional members who are not judges or retired judges</p>	<p>1 app't'd. by the governor</p> <p>3 app't'd. by the chief judge of the court of appeals</p> <p>App't'd. by the governor</p> <p>App't'd. by the governor</p> <p>1 appointed by temporary president of senate</p> <p>1 appointed by minority leader of senate</p> <p>1 appointed by speaker of assembly</p> <p>1 appointed by minority leader of assembly</p>	4	No provision
<u>North Carolina</u> Judicial Standards Commission	7	<p>3 judges</p> <p>2 attorneys</p> <p>2 public members</p>	<p>App't'd. by chief justice</p> <p>Elected by state bar council</p> <p>App't'd. by governor</p>	6	Prohibited

North Dakota					
Commission on Judicial Conduct	7	2 judges 1 attorney 4 public members	1 app't'd. by District Judges Association 1 app't'd. by Assoc. of county court judges App't'd. by executive committee of state bar App't'd. by governor	3	2
Ohio*					
Board of Commissioners on Grievances	28	7 judges 17 attorneys 4 public members	App't'd. by supreme court	3	2
Commission of Judges	5	5 judges	App't'd. by supreme court	Ad hoc	
Oklahoma*					
Council on Judicial Complaints	3	2 attorneys 1 public member	1 app't'd. by speaker of house 1 app't'd. by state bar president 1 app't'd. by senate president pro tempore of senate (Rules do not divide responsibility for appointing attorney or public members)	5	2
Court of the Judiciary— Trial Division	9	8 judges 1 attorney	All senior district judges under 60 not on appellate division and no two from same supreme court district Selected by executive council of the state bar	3*	No provision
Court on the Judiciary— Appellate Division	9	8 judges 1 attorney	2 selected by supreme court 1 selected by court of criminal appeals 5 senior district judges under 65 but no more than 1 from any supreme court district Selected by state bar	3*	No provision

4. Members serve until March 1st of the odd-numbered year next after the year in which they are named.

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
Oregon Commission on Judicial Fitness	9	3 judges 3 attorneys 3 public members	Appt'd. by supreme court Appt'd. by board of governors of state bar Appt'd. by governor	4	No provision
Pennsylvania* Judicial Conduct Board	12	2 judges 1 justice of the peace 3 attorneys 6 public members	1 appt'd. by supreme court, 1 appt'd. by governor Appt'd. by supreme court 1 appt'd. by supreme court, 2 appt'd. by governor 3 appt'd. by supreme court, 3 appt'd. by governor	4	1, but may be reappointed after interval of 1 year
Court of Judicial Discipline	8	3 judges 1 justice of the peace 2 attorneys 2 public members	2 appt'd. by supreme court, 1 appt'd. by governor Appt'd. by supreme court Appt'd. by governor 1 appt'd. by supreme court, 1 appt'd. by governor		
Rhode Island Commission on Judicial Tenure and Discipline	13	4 judges 3 attorneys 3 public members ("need not be attorneys") 3 legislators	Appt'd. by supreme court Appt'd. by governor from state bar list, w/consent of senate Appt'd. by governor, w/consent of senate 1 appt'd. by senate majority leader 2 appt'd. by speaker of house	3 3 2	Not more than 6 consecutive years

Table 2: Commission membership / 23

South Carolina					
Board of Commissioners on Judicial Standards	19	11 judges of the circuit or family courts or masters in equity 3 judges of the magistrate, municipal or probate courts 3 attorneys 2 public members	All members appointed by supreme court	4	May be reappointed
The chair will divide members of the board, other than the chair, vice chair, and public members, into 3 panels of 5 members, specifically, 3 members who are judges from the circuit court, judges from the family court or masters-in-equity; 1 member who is a judge from the magistrate, municipal or probate courts; and 1 attorney member. Each panel will be assigned to serve as an investigative panel or a hearing panel by the chair. If the panel is assigned to serve as an investigative panel, the chair will add either the chair or the vice chair and one public member to the panel.					
South Dakota					
Commission on Judicial Qualifications	7	2 judges 3 attorneys 2 public members	Elected by judicial conference Appl'd. by state bar president Appl'd. by governor	4	Prohibited

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
Tennessee					
Court of the Judiciary	15	3 appellate judges (any combination from court of appeals and court of criminal appeals)	App't'd. by supreme court	4	2
		3 trial judges (one from each grand division)	App't'd. by supreme court		
		3 general sessions judges licensed to practice law (one from each grand division)	App't'd. by supreme court		
		3 attorneys (one from each grand division)	App't'd. by board of governors of bar association		
		3 public members	1 app't'd. by speaker of senate 1 app't'd. by speaker of house 1 app't'd. by governor		
Texas					
Commission on Judicial Conduct	11	5 judges	App't'd. by supreme court with consent of senate	6	Prohibited
		2 attorneys	Selected by state bar with consent of senate		
		4 public members	Selected by governor with consent of senate		

The presiding judge will divide the court into a hearing panel of 12 members and an investigative panel of 3 members.

Utah					
Judicial Conduct Commission	10	1 judge	Selected by judicial conduct commission	2	No provision
		3 bar commissioners	Appt'd. by bar board of commissioners	4	
		2 public members	Appt'd. by governor	2	
		2 representatives	Appt'd. by speaker of house	2	
		2 senators	Appt'd. by president of senate	2	
Vermont					
Judicial Conduct Board	7	2 judges	All members appointed by supreme court	3	2, but member may be reappointed after lapse of one full term
		2 attorneys			
		3 public members			
Virginia					
Judicial Inquiry and Review Commission	7	3 judges	All members elected by general assembly	4	2
		2 attorneys			
		2 public members			
Washington					
Commission on Judicial Conduct	11	3 judges	1 elected by & from court of appeals 1 elected by & from superior court 1 elected by & from district court	4	No provision
		2 attorneys	Selected by state bar		
		6 public members	Appt'd. by governor		

State/Commission	Total members	Membership composition	Selection method	Term (years)	Successive terms
West Virginia*					
Judicial Investigation Commission	9	3 judges 1 magistrate 1 family law master 1 mental hygiene commissioner, juvenile referee, special commissioner or special master 3 public members	All members appt'd. by supreme court	3	2
Judicial Hearing Board	9	3 judges 1 magistrate 1 family law master 1 mental hygiene commissioner, juvenile referee, special commissioner or special master 3 public members	All members appt'd. by supreme court	3	2

Wisconsin*

Judicial Commission	9	2 judges 2 attorneys 5 public members	Appl'd. by supreme court Appl'd. by supreme court Appl'd. by governor with advice and consent of senate	3	2
Judicial Conduct and Disability Panel ⁵	3	3 judges	Selected by chief judge of court of appeals	Ad hoc	

Wyoming

Judicial Supervisory Commission	12	3 judges 3 attorneys 6 public members	Elected by district judges Appl'd. by state bar Appl'd. by governor, w/consent of senate	3	2
---------------------------------	----	---	--	---	---

The presiding commissioner will divide the commission into investigatory panels of 3 members and adjudicatory panels of 4 members; both investigatory and adjudicatory panels will include lawyer members, judge members, and public members.

5. Alternatively, hearing may be held before a court of appeals judge and jury.

Judicial Misconduct

The Utah Judicial Conduct Commission files formal charges if it finds evidence of serious misconduct by judges. But almost all formal charges are secretly resolved. A 1988 public reprimand was hailed as the first, and no judicial discipline has been made public since then.

Formal misconduct charges filed in Utah:

1990-91: 2 formal complaints resolved	1993-94: 3 formal complaints pending
1991-92: No formal complaints filed	1994-95: 2 formal complaints pending
1992-93: 3 formal complaints pending	January 1996: 10 formal complaints pending*

*Two cases have been transferred to the Utah Supreme Court with recommendations for sanctions

Source: Utah Judicial Conduct Commission

When states reveal judges' misconduct charges

Commission files formal charges against the judge	Commission files recommendation for discipline with the state's supreme court	Only when public discipline is ordered by state supreme court
Alabama	Colorado	Delaware
Alaska	Idaho	D.C.
Arizona	Iowa	Hawaii
Arkansas	Louisiana	Kentucky
California	Maine	South Carolina
Connecticut	Mississippi	Utah
Florida	Missouri	
Georgia	New Hampshire	
Illinois	New Jersey	
Indiana	New Mexico	
Kansas	New York	
Maryland	South Dakota	
Massachusetts	Virginia	
Michigan	Wyoming	
Minnesota	Utah	
Montana		
Nebraska		
Nevada		
North Carolina		
North Dakota		
Ohio		
Oklahoma		
Oregon		
Pennsylvania		
Rhode Island		
Tennessee		
Texas		
Vermont		
Washington		
West Virginia		
Wisconsin		

Source: American Judicature Society

JUDICIAL MEMBERS ON JUDICIAL CONDUCT COMMISSIONS

<u>Number of Judges</u>	0	1	2	3	4	5	6	7	8
States	HI	DC	ID	AK	AL	MI	AZ	DE*	OK**
		IN	ME	AR	CO	PA*	FL*	IL*	
		IA	MO	CA	KS	TX	WV*		
		UT	MT	CN	MN	WI*			
			NV	KY	MS				
			NJ**	LA	NE				
			NM	MD	NH				
			ND	MA	NY				
			SD	NC	RI				
			VT	OR					
				VA					
				WA					
				WY					

NOTE: South Carolina has a total of 14 judges on three panels; Tennessee has 9 judges on a two-tiered commission; Ohio has 12 judges on a two-tiered commission

* two-tier commissions

** New Jersey has "at least" 2 judges; Oklahoma has 8 judges on trial division, 8 on appellate division

- 4.4 If a career service employee is unable to complete the objectives of the trainee appointment, management shall return the trainee to a position similar in grade and position from which the employee was appointed.
5. Probation.
 - 5.1 The ~~probation~~ probationary period is part of the selection process. Management evaluates an employee's suitability for career service employment during this period based upon demonstrated competence and conduct.
 - 5.1.1 Management shall give an employee a reasonable opportunity to demonstrate competence and satisfactory conduct. Management shall provide a reasonable amount of guidance regarding expectations. Management may dismiss an employee at any point during the probationary period for failure to demonstrate progress in correcting deficiencies in performance or behavior.
 - 5.1.2 The standard period for successful advancement from probation to career service status is one year. Deviation from the standard period shall be approved by the court executive, in consultation with the court level administrator and the director, prior to the expiration of the probation period. The period may not be shortened or extended by more than six months.
 - 5.2 An employee is eligible to receive a ~~probation~~ probationary increase at the conclusion of the ~~probation~~ probationary period. Such an increase is contingent upon the legislature funding merit increases for the same fiscal year.
 - 5.3 If a ~~probation~~ probationary employee is promoted to a different class series, the ~~probation~~ probationary period shall run anew.
 - 5.4 Management may not discharge a probationary employee without first preparing and providing to the employee a written statement outlining the reasons for discharge.
6. Trial Period.
 - 6.1 Upon promotion to a position of significantly different duties and responsibilities, a career service employee shall serve a trial period of one year. If the employee fails to pass the trial period, the employee may be reassigned to a similar position at the same grade and step as was formerly held. The employee is not eligible for a pay increase at the end of the trial period.
 - 6.2 An employee currently serving a trial period may not make a lateral transfer to another district without the approval of both court executives.

7. Contingent.

- 7.1 The court executive, in consultation with the court level administrator and the director, may create a non-permanent position funded by contingent funding such as grants, self-funding, or similar sources. If the contingent position is created in the administrative office, the director, in consultation with the state court administrator, shall authorize the position.
- 7.2 Appointment to a contingent position must be made with a competitive selection process and may include benefits.
- 7.3 The director shall develop a memorandum of understanding outlining the conditions of employment and expected duration of the contingent position. Management and the employee shall sign the memorandum of understanding when the employee is hired.

8. Temporary.

- 8.1 The court executive, in consultation with the court level administrator, may create a temporary position when temporary, emergency or other special needs justify such action. If the temporary position is created in the administrative office, the director, in consultation with the state court administrator, shall authorize the position. A temporary employee serves at the will of management.
- 8.2 Appointment to a non-career service position for a period of nine months or less in a 12 month period shall be made on a temporary basis. Management may appoint an individual to a temporary position without a competitive examination; however, appointment from temporary to career service or contingent status shall not be made unless the individual successfully completes a competitive selection process for the original temporary position.
- 8.3 Appointment to fill a vacancy created by an employee on approved leave without pay shall be made on a temporary basis.
- 8.4 A temporary employee shall be compensated on an hourly basis, without benefits.

9. Part-Time Employment.

- 9.1 The court executive, in consultation with the court level administrator, may establish or dissolve part-time positions within the approved FTE allocation.
- 9.2 Management and the employee shall sign a memorandum of understanding outlining

the terms of the part-time employment including salary, benefits and job description.

10. Career Mobility Assignment.

- 10.1 The court executive, in consultation with the court level administrator and director, may authorize a temporary promotion or assignment when emergency or other special needs justify such action. If the temporary promotion or assignment involves an employee of the administrative office, the director, in consultation with the state court administrator, shall authorize the promotion or assignment.
- 10.2 Appointment to the temporary position may be based on the competitive selection process.
- 10.3 Management shall not permanently appoint the employee to the position without first opening the position to the competitive selection process.
- 10.4 The director shall develop a memorandum of understanding outlining the conditions of employment, including the duration, salary of the position, and whether the exchange may become permanent. Management and the employee shall sign the memorandum of understanding when the employee is placed in the temporary position.
- 10.5 If the employee returns to the employee's previous position or to another like position, the employee shall receive the same salary, plus any salary advancements that the employee would have attained for satisfactory performance in the previous position had the employee not participated in the career mobility.
- 10.6 If the career mobility assignment does not become permanent, management shall return the employee to the employee's previous position or another like position.

11. Career Exchange Program.

- 11.1 Exempt and career service employees may participate in career exchange programs designed to develop resources and enhance the career growth of employees. An employee may request to participate in a career exchange.
 - 11.1.1 A participating employee shall retain all rights of the employee's previous position.
 - 11.1.2 A participating employee shall be treated as other reduction-in-force employees if the position the employee left is affected by a reduction in force.

- 11.2 A career exchange participant who may be from outside state government, must meet the minimum qualifications of the career exchange position.
- 11.3 Subject to 11.1.2 above, if the employee returns to the employee's previous position or to another like position, the employee shall receive the same salary prior to the career exchange, plus any salary advancements that the employee would have attained for satisfactory performance in the previous position had the employee not participated in the career exchange.
- 11.4 Management and the employee shall sign a memorandum of understanding defining the nature and terms of the career exchange, including whether the exchange may become permanent.

12. Transfer.

All interdistrict openings shall be posted.

12.1 Voluntary Transfer.

- 12.1.1 Management shall conduct an internal recruitment prior to initiating an interdistrict transfer.
- 12.1.2 Before initiating a transfer, management shall verify with the director the employee's eligibility for transfer, including minimum qualifications, salary eligibility, benefit status and career status.
- 12.1.3 Management may initiate a transfer only at the beginning of a pay period, as defined by the state payroll system.
- 12.1.4 In accepting a transferred executive branch employee, the courts shall * accept all accrued benefits supported by official records except accumulated comp time which must be used or paid out by the agency from which the employee is transferring prior to the transfer date.

12.2 Involuntary Transfer.

- 12.2.2 Management may involuntarily transfer an employee if the transfer is required to meet the needs of the organization.
- 12.2.3 Management may offset an employee's moving expenses if the employee is required to relocate to an office outside the employee's judicial district. Moving expenses may also be offset in other appropriate circumstances,

as determined jointly by the state court administrator and the director.

13. Reassignment.

13.1 Management may reassign employees from one position to another based on need.

13.2 A reassignment may be initiated by management for administrative reasons or may be requested by an employee, provided the position remains within the class specification.

14. Rehire.

14.1 Management may rehire a former career service employee, without going through a competitive selection process, if the employee is rehired within 12 months of the employee's termination date.

14.1.1 A former employee who has been terminated for cause is not eligible for rehire under this section.

14.1.2 An employee who is rehired under this section may be required to serve a trial period.

14.2 An employee is eligible to be rehired without going through a competitive selection process only in a former or substantially equivalent position and comparable or lower salary to that formerly held.

15. Volunteer.

15.1 Management may establish a program for the use of volunteers.

15.2 The director shall develop guidelines for the use of volunteers.

15.3 Volunteer service credit will be recognized for determining minimum qualifications for a career service position.

15.4 Prior to accepting volunteer services, the court executive and the volunteer shall sign a memorandum of understanding defining the nature and terms of the volunteer services.

15.5 A volunteer is considered an employee of the courts for the purposes of:

15.5.1 Worker's compensation benefits for any injuries sustained by the volunteer

while performing assigned service; or

15.5.2 Operating state vehicles or equipment when the volunteer is properly licensed for that operation; or

15.5.3 Indemnification offered salaried employees.

16. Internship/Student Practicum.

16.1 Management may authorize a student internship/practicum program. Management may pay the intern a stipend.

17. Telecommuting.

17.1 Telecommuting is an alternative working arrangement that may be considered by management for expanding work site possibilities and allowing work to be accomplished in a more productive or efficient manner.

17.2 The director, in consultation with the State Court Administrator, shall identify criteria which would make a position potentially suitable for telecommuting.

17.2.1 Management may request in writing that the director evaluate a specific position for telecommuting suitability. Such a request shall include justification for making the change.

17.3 Management may enter into a telecommuting agreement with an employee only with prior approval of the court level administrator, in consultation with the director.

17.4 Management and the employee shall sign a memorandum of understanding specifying the terms of the telecommuting agreement. Such a memorandum shall include, but not be limited to, duties, working hours and conditions, use and care of state-owned equipment and supplies, confidentiality of information, and means of assessing employee performance.

17.5 An employee who is on corrective or disciplinary action may not telecommute.

17.6 A telecommuting agreement may be terminated at will by management.

be in the following order:

- a court employee;
- an employee from the ~~state-wide~~ courts' reappointment register;
- ~~an employee of the executive branch;~~
- a former employee of the court;
- an outside applicant for the position.

2.5 Management may make a trainee appointment only with prior approval by the court level administrator, in consultation with the director.

3. Disqualification of Applicant.

3.1 Applications shall be signed by the applicant and the truth of all information contained therein shall be certified by the applicant's signature.

3.2 An application may be rejected by management if the applicant:

3.2.1 does not meet the minimum qualifications established for the position;

3.2.2 is physically or mentally unable to perform the duties and responsibilities of the position with reasonable accommodation as provided by the Americans With Disabilities Act and other state and federal laws;

3.2.3 has falsified a material fact or failed to complete the application;

3.2.4 has failed to timely file the application;

3.2.5 has an unsatisfactory employment history or poor work references;

3.2.6 has been convicted of a felony; or

3.2.7 has failed to attain a passing score, if an examination is required.

3.3 The applicant shall provide a copy of required certified educational transcripts either with the application or upon hire, at management's request.

4. Human Resources' Participation.

4.1 Management may request assistance from the HRM Division for any portion of the

recruitment or selection process.

4.2 The director or the State Court Administrator may require representation by the HRM Division in the recruitment and selection process.

4.2.1 Management is encouraged to involve the HRM Division for a recruitment and selection process that contains internal applicants.

5. Invalidation of Recruitment and Selection Process

5.1 Within 30 days of selection of an internal applicant, the director, in consultation with the court level administrator, may declare a recruitment and selection process invalid if applicable policies and procedures were not followed during the process.

5.2 If a recruitment and selection process is invalidated by the director, any job offer issued to an internal applicant during the process is void.

5.3 The determination to invalidate a selection process is not subject to appeal through the grievance and appeal process described in policy 620.

RECIPROCITY AGREEMENT

PURPOSE

It is the policy of the Judiciary to maintain a ~~career service~~ reciprocity agreement with the Utah Department of Human Resources Management. This agreement ~~will allow~~ facilitates an employee ~~to transferring~~ from one branch of state government to another ~~in the same manner as if the employee were transferring within one system.~~ by providing continuity of paychecks, accrued benefits and insurance coverage.

SCOPE

This policy defines eligibility for transfer and establishes procedures for the recruitment, screening, selection and appointment of transferred employees.

CROSS REFERENCES

Employment Categories, Policy 230
Recruitment and Selection, Policy 210

POLICY AND PROCEDURE

1. Eligibility for Transfers.

- 1.1 Subject to the terms of the reciprocity agreement, a career service employee of another branch of state government, ~~hired through a competitive selection process,~~ may apply and compete for any position announced within the courts.

2. Job Announcements.

- 2.1 The director shall distribute job announcements for positions within the courts to the Department of Human Resources Management.

~~3. Verification:~~

- ~~3.1 The director shall verify through the Department of Human Resources Management that an applicant from another branch of government was hired through a competitive selection process.~~

- ~~3.2 Management from another branch of government may verify through the director that an applicant was selected through a competitive selection process.~~

4.3. Recruitment and Selection.

4.13.1 An applicant from another branch of government shall be subject to the provisions of the courts' recruitment and selection policy.

3.1.1 4.1.1 For purposes of recruitment, an applicant from another branch of government shall be considered an ~~internal~~ external applicant.

4.23.2 An applicant hired in accordance with this policy and who transfers to a position of similar grade and classification shall not receive an increase in pay.

4. Benefits

4.1 With the exception of compensatory time, the courts shall accept all accrued benefits of an employee transferring from another branch of government. Such benefits must be supported by official records.

4.1.1 An employee's compensatory time cannot be transferred and must be used or paid out prior to transfer to another branch of government.

PURPOSE

The Utah State Courts, as an independent branch of government, has the authority to establish a separate system of Human Resources Management (HRM) administration. HRM activities are administered within the framework of an established system of policies in order to achieve optimum equity, efficiency and economy in the utilization of human resources.

SCOPE

This policy applies to all court employees. The policy includes a discussion of establishing sound personnel principles, providing equal employment opportunities and determining a time frame for policy review.

CROSS REFERENCES

Utah Code Ann., Title 67, Chapter 19

POLICY AND PROCEDURE

1. Personnel Principles

1.1 A personnel system is established to ensure the operation of sound personnel principles in all activities.

1.1.1 Recruiting, selecting, and advancing ~~an~~ employees is based upon relative ability, knowledge, and skills including open consideration of qualified applicants for career service positions.

1.1.2 Equitable compensation is provided.

1.1.3 ~~An~~ employees ~~are~~ ~~is~~ trained as needed to ensure high quality performance.

1.1.4 ~~A~~ career service employees ~~are~~ ~~is~~ retained on the basis of ~~the adequacy of their performance.~~ successful performance. Provisions are made for correcting ~~inadequate~~ unsuccessful performance and separating ~~an~~ employees whose ~~inadequate~~ unsuccessful performance cannot be corrected.

~~1.1.5~~ ~~Employees are provided a copy of the court's HRM Policy and Procedure within two weeks of employment.~~

1.1.5 An employee shall be provided access to the Courts' HRM Policy and Procedures.

2. Equal Opportunity Employer

2.1 The Courts are an equal opportunity employer.

2.2 Unlawful discrimination is prohibited against any person in any aspect of HRM.

2.2.1 Distinctions may be made where specific requirements constitute a bonafide occupational qualification as determined by the Director.

2.2.2 Reasonable accommodations shall be made in accordance with provisions of the Americans With Disabilities Act for applicants and employees.

2.3 Sexual harassment in the work place is prohibited.

3. Policy Review

3.1 The HRM Department shall review all policies and procedures at least annually and propose amendments as needed for consideration by the Judicial Council.

RULEMAKING SCHEDULE FOR APRIL 1998 PUBLICATION


DATE	JUDICIAL COUNCIL RULES	SUPREME COURT RULES
July 11, 1997	Submit rule requests to AOC staff for drafting	
July 23, 1997	Submit draft rules to AOC staff	
July 25, 1997	Deliver draft rules to Policy & Planning	
Aug. 1, 1997	Policy & Planning review	
Aug. 20, 21, 22, 1997	Judicial Council Approval for Comment	Supreme Court Advisory Committee approval for comment
Aug. 25, 1997	Submit draft rules to AOC staff for publication for comment	Submit draft rules to AOC staff for publication for comment
Aug. 26, 1997	Draft rules to publisher	Draft rules to publisher
Sept. 11-15, 1997	Mailing to Bar	Mailing to Bar
Oct. 31, 1997	Deadline for comment	Deadline for comment
Nov. 1997	Consideration of comments	Consideration of comments
Nov. 27, 1997	Submit draft rules to AOC staff after comment	
Nov. 28, 1997	Deliver draft rules to Policy & Planning	Submit rules to Supreme Court for Final Action
Dec. 5, 1997	Policy & Planning review	
Dec. 17, 1997	Judicial Council Final Action	Supreme Court Final Action
Jan. 26, 1997	Submit approved rules to AOC staff	Submit approved rules to AOC staff
Feb. 2, 1998	Submit approved rules to publishers	Submit approved rules to publishers
Apr. 1, 1998	Publication of Utah Court Rules Annotated	Publication of Utah Court Rules Annotated

Administrative Office of the Courts

Chief Justice Michael D. Zimmerman
Chair Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

 TO: Management Committee of the Judicial Council
FROM: Holly M. Bullen
Assistant State Court Administrator
DATE: May 9, 1997
RE: Divorce Education Oversight Committee

Rule 4-907, Mandatory Divorce Education, specifies that the Judicial Council shall appoint a committee to oversee and monitor the divorce education program, whose membership shall include judges, court administrators, attorneys, and members of the public. In preparation for the program going into effect statewide in 1994, a committee was appointed, whose membership consisted of the following:

Judge Michael D. Lyon	Second District
Judge Glenn K. Iwasaki	Third District
Judge Steven L. Hansen	Fourth District
Commissioner Michael Evans	Third District
Paul Sheffield	Court Executive - Fourth District
Tim Simmons	Court Executive - Seventh District
Helen Christian	Attorney
John D. Schaeffer	Attorney
Nance Kohlert, Ph.D.	Public member (Mental Health Professional)

The oversight committee met several times during the spring of 1994 to work out the mechanics of the program and to review the proposals submitted under the initial Request for Proposals (RFP). They assisted in making the selection of the divorce education providers who received contracts to provide the program on a statewide basis. The committee has not had occasion to meet again since that time.

The three-year duration of the contracts with the service providers will expire as of June 30, 1997. An RFP was issued, and proposals have been received. We now need to reconvene the oversight committee to review the proposals for the new contract period of July 1997 through June 2000.

May 9, 1997
Page Two

The oversight committee is not a standing committee of the Council as specified under Rule 1-205. Also, it does not appear to be an "ad hoc" committee of the Council under Rule 1-205. Accordingly, staff recommends that the provisions of Rule 1-205, including the announcement of committee vacancies, not apply to this particular group. Staff further recommends that the committee membership be handled as follows:

It is recommended that three members on the committee be replaced every three years.

This year: It is recommended that Commissioner Lisa Jones replace Commissioner Michael Evans.

It is recommended that Court Executive Sharon Hancey (First District) replace Court Executive Tim Simmons (Seventh District).

It is recommended that Betty Vos, Ph.D. replace Nance Kohlert, Ph.D.

The reasons for these recommendations are as follows:

In general, it would be beneficial to have some new members to bring in fresh ideas, and yet retain some existing members for continuity.

The specifically proposed new members would provide more gender balance on the committee.

The specifically proposed new public member, Dr. Betty Vos, has a specialty in divorce, single parenting and "blended families," so she has more specific expertise in the field of divorce education than Dr. Nancy Kohlert, whose background is general mental health counseling.

If the Management Committee is in agreement with these proposed changes, we request that the proposal be placed on the Judicial Council's consent calendar on May 19, 1997. If the Management Committee does not agree, we request direction on the most appropriate way to proceed.

Thank you for your consideration of this matter.

c: Ms. Kristine Prince, Court Programs Coordinator

FIRST DISTRICT OFFICE

Attorney: Dianne R. Balmain
 CASA Coordinator: Shelley H. Keller
 55 North Main, Suite 104
 Logan, Utah 84321
 (801) 755-8079 FAX 755-8627

SECOND DISTRICT OFFICE

Attorneys:
 Jan W. Arrington
 David S. Dillon
 Sherene T. Dillon
 Taniela Fiefla
 Neal G Hart
 Kathleen McNally Nelson
 523 Heritage Boulevard, Suite 2
 Layton, Utah 84041
 (801) 779-6520 FAX 779-6530

THIRD DISTRICT OFFICE

Attorneys:
 Susan C. Bradford
 Susan Eisenman
 Kristin L. Fadel
 Karen Flynn
 Elizabeth M. Knight
 Martha Pierce
 Felipe E. Rivera
 Penny Heal Trask
 Adam E. Trupp
 Judith Romney Wolbach
 230 South 500 East, Suite 170
 Salt Lake City, Utah 84102
 (801) 578-3962 FAX 578-3965

FOURTH DISTRICT OFFICE

Attorneys:
 Kelly Frye
 Claralyn M. Hill
 R. John Moody
 Jini L. Roby
 Jeffrey C. Shorter
 Ron D. Wilkinson
 CASA Coordinator: Lisa Miller
 32 West Center Street, Suite 205
 Provo, Utah 84601
 (801) 344-8516 FAX 344-8597

FIFTH DISTRICT OFFICE

Attorney: Dale W. Sessions
 CASA Coordinator: Laurie W. Hulet
 5 North Main Street, Suite 307
 P.O. Box 1586
 Cedar City, Utah 84721-1586
 (801) 586-0878 FAX 586-0793

SIXTH DISTRICT OFFICE

Attorney: Michael Jorgensen
 37 North 100 East
 Salina, Utah 84654
 (801) 529-7413 FAX 529-4298

SEVENTH DISTRICT OFFICE

Attorney: Craig M. Bunnell
 90 West 100 North
 Price, Utah 84501
 (801) 637-1245 FAX 637-1713

EIGHTH DISTRICT OFFICE

Attorney: Cleve J. Hatch
 CASA Coordinator: Carolyn White
 363 East Main, 2nd Floor
 Vernal, Utah 84078
 (801) 789-2516 FAX 789-2759

Kristin G. Brewer, Attorney at Law
 Director, Office of Guardian ad Litem
 Administrative Office of the Courts
 230 South 500 East, Suite 300
 Salt Lake City, Utah 84102
 (801) 578-3800 FAX 578-3843

Susan R. McNulty
 Statewide CASA Coordinator
 230 South 500 East, Suite 170
 Salt Lake City, Utah 84102
 (801) 578-3962 FAX 578-3965



MEMO

To: Judicial Council Members
From: Susan McNulty, Utah CASA Coordinator *SM*
Subject: CASA Grant Application
Date: May 14, 1997

This memo is to advise you that the Utah Court Appointed Special Advocate (CASA) program has applied for a state expansion grant from the National Court Appointed Special Advocate Association (NCASA). The grant could be as much as 80,000 over a two year period and does not require any matching funds. Some of the needs to be addressed by the grant are:

- ◆ CASA technicians to ensure compliance with NCASA standards of one supervisor for every 30 volunteers
- ◆ A statewide CASA conference
- ◆ A statewide newsletter

After the two year grant period expires I anticipate the juror check off program, which has been projected by the Legislative Fiscal Analyst office to earn as much as 40,000 a year, to continue to fund the items previously funded by the grant.

The grants will be awarded June 16, 1997. If you should have any questions or concerns please contact me.