

**JUDICIAL COUNCIL MEETING  
Minutes**

**September 12, 2023**

**Meeting held through Webex  
and in person  
Sheraton Park City  
Silver Mine A & B  
1895 Sidewinder Drive  
Park City, Utah 84060**

**12:00 p.m. – 2:37 p.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. Augustus Chin  
Hon. Michael DiReda  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. James Gardner  
Hon. Elizabeth Lindsley  
Hon. Keith Barnes  
Hon. Samuel Chiara  
Hon. Thomas Low  
Justice Paige Petersen  
Margaret Plane, esq.

**Excused:**

Hon. Kara Pettit

**Guests:**

Judge Michele Christiansen Forster

**AOC Staff:**

Ron Gordon  
Neira Siaperas  
Michael Drechsel  
Sonia Sweeney  
Shane Bahr  
Jim Peters  
Nick Stiles  
Keisa Williams  
Brianna Eriksson  
Hilary Wood  
Bart Olsen  
Brody Arishita  
Karl Sweeney  
Alisha Johnson  
Melissa Taitano  
Jordan Murray  
Lauren Andersen  
Chris Palmer

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

Chief Justice Matthew B. Durrant joined the meeting virtually. Judge David Mortensen, who appeared in person, welcomed everyone to the meeting.

**Motion:** Judge Paul Farr moved to approve the August 18, 2023, Judicial Council meeting minutes, as amended. Judge Keith Barnes seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported that he presented to the Elected Officials and Judicial Compensation Commission (“EJCC”) last week and requested a ten percent salary increase for judges.

Chief Justice Durrant shared that the district meetings with legislators have gone well. The purpose of the meetings has been to educate legislators on the importance of the independence of the Judiciary and allow for discussion between the judicial and legislative branches. Chief Justice Durrant shared that similar meetings between judges and legislators have occurred in the past, however, he found this year's meetings to be notably constructive and more substantive than in prior years.

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

Ron Gordon introduced Hilary Wood as the new executive assistant to himself and Neira Siaperas. He thanked the Administrative Office of the Courts (AOC) staff for their assistance during the time the executive assistant position was vacant, as well as the Education Department for their work in facilitating the annual judicial conference.

The tribal liaison position has been filled by Matilda (Tilda) Willie. Ms. Willie’s first day is scheduled for September 18, 2023.

The groundbreaking ceremony for the new Sixth District Courthouse in Manti, Sanpete County, took place on August 21, 2023. Mr. Gordon shared that the ceremony went well. Many elected officials attended, and Chief Justice Durrant shared moving words.

Mr. Gordon discussed the status of contracts with mental health service providers, Tava Health and Unmind Wellbeing. The contract with Unmind was finalized and the Courts are close to finalizing the contract with Tava. Tava will provide Court employees up to six free sessions annually with licensed mental health clinicians through Tava’s secure, web-based technology platform. Unmind is a wellness app that provides confidential access to tools, trainings, and exercises to support mental wellbeing. Mr. Gordon shared that a local news outlet interviewed him and Tiffany Power, Trial Court Executive in Third District Juvenile Court, and will air a story about the expanded mental health resources the Court is offering. He thanked the Judicial Council for their support in providing crucial mental health services to all judiciary employees.

The Court has been actively working with the Utah Board of Pardons and Parole to create a record-sharing agreement, which will enable the district court to automatically provide records to the Utah Board of Pardons and Parole.

Mr. Gordon echoed Chief Justice Durrant’s sentiment regarding the meetings with legislators, sharing that he is encouraged by the dialogue between judges and legislators, and the meetings have been productive and insightful.

#### **4. COMMITTEE REPORTS:**

##### **Management Committee Report:**

The work of the committee is reflected in the minutes.

##### **Budget & Fiscal Management Committee Report:**

The work of the committee will be discussed later in the meeting.

##### **Liaison Committee Report:**

Justice Paige Petersen had nothing new to report.

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

The work of the committee will be discussed later in the meeting.

##### **Bar Commission Report:**

Margaret Plane reported that the July 2023 Utah State Bar exam results will be released later this week. Ms. Plane reminded the Judicial Council that effective July 2023, a change to the cut score lowered the required passing score on the Bar Examination from 270 to 260. She shared that the pass rate is at 98%, which is a much higher rate than has been recorded in the past. The swearing-in ceremony will take place on October 27, 2023. The integration with the innovation office is going well, and the bar commission is optimistic about the progress made. The Utah State Bar has experienced some staffing changes, including newly hired General Counsel, Maribeth Lehoux, and Finance Director, Nathan Severin.

#### **5. JUDICIAL EDUCATION COMMITTEE REPORT: (Lauren Andersen)**

Judge David Mortensen welcomed Lauren Andersen, Judicial Institute Director. Ms. Andersen presented the Standing Education Committee's annual report. She highlighted the increased participation in training, noting that the Education Department received 43,768 enrollments in live trainings and online, on-demand courses. This equates to approximately 24 enrollments per court employee. Eighty-three percent of these enrollments obtained credit, a one percent increase over last year. Ms. Andersen also thanked the Judicial Council for the support for the amendment to the Utah Code of Judicial Administration Rule 3-403 to include annual education requirements that all employees complete courses on ethics, abusive conduct and harassment, and inclusion and elimination of bias. The Education Department is already offering courses that satisfy these requirements, with an anticipation that the variety of courses will expand in FY24. Court employees are required to complete courses by June 30, 2024.

#### **6. JUDICIAL RETENTION ELECTIONS: (Jim Peters)**

Judge David Mortensen welcomed Jim Peters, Justice Court Administrator. Judicial retention elections certified by the Council are set by JPEC Rule 597-3-4(2). CJA Rule 3-101 establishes the performance standards:

- A maximum number of cases under advisement;
- A minimum number of continuing education hours; and
- Physical and mental competence.

There are thirty District Court Judges, nineteen Justice Court Judges, twelve Juvenile Court Judges, one Court of Appeals Judge, and one Supreme Court Justice that will stand for retention in 2024.

Judge David Mortensen thanked Mr. Peters.

One trial court judge had at least one case under advisement for more than six months, however, that occurred during the pandemic when applicable portions of Rule 3-101 of the Code of Judicial Administration were suspended by order of the Supreme Court and Judicial Council. Because of this suspension, the six-month under-advisement performance standard did not apply.

**Motion:** Judge Paul Farr moved to certify to JPEC the above-listed judges for the 2024 retention election. Judge Chin seconded the motion, and it passed with Judge Elizabeth Lindsley, Judge Brian Brower, Judge Michael D. DiReda, Judge James D. Gardner, Judge Kara L. Pettit, and Judge Keith C. Barnes abstaining as to their certifications.

Mr. Peters will relay the Judicial Council’s decision to JPEC by October 1, 2023.

**7. BUDGET AND GRANTS: (Karl Sweeney, Jordan Murray, Melissa Taitano, and Jordan Murray)**

Judge David Mortensen welcomed Karl Sweeney, Jordan Murray, and Melissa Taitano.

**FY 2024 One-Time Turnover Savings**

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 08/04/2023)	Internal Savings	218,733.99
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 08/04/2023)	Reimbursements	105,268.94
3	Est. One Time Savings for 1880 remaining pay hours (\$1,800 / pay hour)	Internal Savings (Est.)	3,384,000.00
<b>Total Potential One Time Savings</b>			<b>3,708,002.93</b>

**FY 2024 Ongoing Turnover Savings**

#		Funding Type	Actual Amount YTD	Forecasted Amount @ YE
	Carried over Ongoing Savings - reported at 6/26/2023 Judicial Council Meeting	Internal Savings	(300,419)	(300,419)
	Add back: "Assistant Justice Court Administrator" request to be funded by JCTST funds	Internal Savings	74,000	74,000
	Sub-Total		(226,419)	(226,419)
	Turnover Savings generated from FY 2023 due to 2023 actions selecting benefits		<b>86,150</b>	<b>86,150</b>
	Carried over Ongoing Savings (from FY 2023)	Internal Savings	(140,269)	(140,269)
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 10 months remaining)	Internal Savings	45,085	545,085
	<b>TOTAL SAVINGS</b>		<b>(95,184)</b>	<b>404,816</b>
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(38,502)	(200,000)
	2024 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	-
	<b>TOTAL USES</b>		<b>(38,502)</b>	<b>(200,000)</b>
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		-	262,550
<b>Actual Turnover Savings for FY 2024 as of 08/18/2023</b>			<b>\$ (133,686)</b>	<b>\$ 467,366</b>

ARPA funds remaining are \$5,079,684.84

## FY 24 Forecasted Available One-time Funds

	Description	Funding Type	Amount
<b>Sources of YE 2024 Funds</b>			
*	Turnover Savings as of PPE 08/04/2023 (including anticipated ARPA reimbursement)	Turnover Savings	<b>324,003</b>
**	Turnover savings Estimate for the rest of the year (\$1,800 x 1880 pay hours)	Turnover Savings	<b>3,384,000</b>
(a)	<b>Total Potential One Time Turnover Savings</b>		<b>3,708,003</b>
	Operational Savings From TCE / AOC Budgets	Internal Operating Savings	-
	Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	<b>52,997</b>
	Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-
(b)	<b>Total Operational Savings and Reserve</b>		<b>52,997</b>
(c)	<b>Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		<b>3,761,000</b>
<b>Contingent Legislative Supplemental Funding:</b>			
	JWI Increase to 2 Hour Minimum	Legislative Contingent	275,000
	JWI Higher Pay for Rural Assignments	Legislative Contingent	146,500
(d)	<b>Subtotal - Contingent Legislative Supplemental Funding</b>		<b>421,500</b>
<b>Uses of YE 2024 Funds</b>			
(e)	Carryforward into FY 2024 (Anticipate request to Legislature for \$3,200,000)	Historical Carryforward	<b>(3,200,000)</b>
<b>Total Potential One Time Savings = (c) + (d) less Carryforward (e)</b>			<b>982,500</b>
<b>Less: Judicial Council Requests Previously Approved</b>			<b>(653,950)</b>
<b>Less: Judicial Council Current Month Spending Requests</b>			<b>-</b>
<b>Remaining Forecasted Funds Available for FY 2024 YE Spending Requests</b>			<b>328,550</b>

### Eviction Diversion Initiative Grant

The Judicial Council approved for submission in March 2023 a grant application proposal to the National Center for State Courts (NCSC) supporting evictions diversion. NCSC has awarded the Courts \$105,191 to support the hiring of an eviction diversion coordinator, employed by People’s Legal Aid (PLA), who will orchestrate intakes, educate defendants, and connect individuals with volunteers providing brief legal advice, other legal services as appropriate, and social services that can help with rental and housing assistance. PLA has secured additional funding to support and sustain this effort over the two-year project period. Utah is one of ten newly selected jurisdictions to be awarded funding in the 2023-2025 cycle. If funds are accepted, Utah will join a cohort of twenty-one other state and local jurisdictions across the country participating in NCSC’s Eviction Diversion Initiative. It was clarified that the eviction diversion coordinator will be employed by PLA and is not a court employee.

**Motion:** Judge Chin moved to approve accepting the Eviction Diversion Initiative Grant, as presented. Judge Farr seconded the motion, and it passed unanimously.

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

Judge David Mortensen welcomed Keisa Williams. Following a 45-day public comment period, the Policy, Planning, and Technology Committee recommended that the following rule be approved with a November 1, 2023, effective date.

- CJA Rule 4-202.11. Vexatious record requester (NEW). The proposed rule establishes a new process to petition for relief from a vexatious requester, designating the Management

Committee as the “appellate board” and the Office of General Counsel as the “administrative unit” authorized to petition for relief.

One public comment was received. The Policy, Planning, and Technology Committee does not recommend amendments in response to the public comment because the court will grant reasonable requests from attorneys seeking records on a client’s behalf, provided the attorney has not also been deemed a vexatious requester.

**Motion:** Judge Thomas Low moved to approve CJA Rule 4-202.11, as presented with an effective date of November 1, 2023. Judge Chin seconded the motion, and it passed unanimously.

Judge David Mortensen thanked Ms. Williams.

## **9. INFORMATION TECHNOLOGY POLICIES: (Brody Arishita)**

Brody Arishita, Director of the Information Technology (IT) Department sought approval from the Judicial Council for two IT policies. Mr. Arishita explained that in response to the Legislative Auditor General’s cybersecurity audit, the Technology Advisory Committee is working with the Policy, Planning, and Technology Committee to overhaul the judicial branch’s IT policies. The Technology Advisory Committee is developing a comprehensive IT Policy Manual similar in format to the Human Resources and Accounting Manuals. While the Technology Advisory Committee continues its work on the IT Policy Manual in its entirety, the Policy, Planning, and Technology Committee recommends that the Judicial Council adopt the following two sections of the Manual with a September 12, 2023 effective date in an effort to implement the first steps needed to protect the courts against cyberattacks

- IT-01000 Information Security Policy (NEW - Internal) All Utah State Courts’ (Utah Courts) Information Technology (IT) employees, contractors, vendors, interns and third-parties that create, use, maintain, or handle Utah Courts’ IT resources shall follow Utah Courts Information Security Policy and related sub-policies. The policy shall be subject to and superseded by applicable regulations and laws.
- IT-01150 Information Security Risk Management (NEW - Internal) The Enterprise Domain and Security Architect (EDSA) shall document and implement a risk management program to prevent, detect, contain, and correct both deliberate and inadvertent IT security incidents and emergencies.

Judge David Mortensen thanked Mr. Arishita.

**Motion:** Judge Farr moved to approve the two policies as presented with an effective date of September 12, 2023. Judge Lindsley seconded the motion and it passed unanimously.

## **BOARD OF APPELLATE COURT JUDGES REPORT: (Judge Michele Christiansen Forster and Nick Stiles)**

Judge David Mortensen welcomed Judge Michele Christiansen Forster and Nick Stiles. Judge Christiansen Forster reported that the Court of Appeals and the Supreme Court have met with JPEC separately and jointly. Judge Christiansen Forster explained that through the meetings, there was an issue identified regarding a deficient number of evaluators for the Court

of Appeals and Supreme Court proceedings that may result in vulnerabilities in the data collected from the evaluations. To increase the number of evaluators, JPEC recommended developing a pilot project in which juvenile court and district court judges evaluate decisions issued by appellate judges, effectively increasing the number of evaluators assessing the work of those courts.

Judge Christiansen Forster reported that the Board of Appellate Court Judges has met with Judge Richard Mrazik and Jonathan Puente regarding the work of the Office of Fairness and Accountability. They discussed their strategic plan and the efforts of the Racial and Ethnic Diversity workgroup. The Board of Appellate Court judges expressed support for the work that the Office of Fairness and Accountability and Racial and Ethnic Diversity workgroup is doing.

At the May Judicial Council meeting, the Board reported a plan to submit a budget request to add another appellate mediator to the appellate mediation office. That position has since been funded, and interviews will be held soon. The Board is hopeful that the addition of the appellate mediator will ease the burden on the Court of Appeals judges by decreasing their caseload count.

Both the Supreme Court and Court of Appeals continue to work on a hybrid work schedule, with most employees and judges being in office two to three days a week. The majority of oral arguments are held in person with an option for a hybrid setting when warranted.

Lastly, The Board met in July to hear requests for funding from the legislature for FY25. The Board provided their ranking recommendations to the budget committee.

Judge David Mortensen thanked Judge Christiansen Forster and Mr. Stiles.

#### **10. JUDICIAL COMPENSATION AND RECRUITMENT: (Ron Gordon)**

Mr. Gordon discussed the FY25 Judicial Officer Budget Request, noting that during the August 2023 annual budget meeting, the Judicial Council established its priorities for legislative requests. The request for ten judicial officers was its second budget priority with the understanding that it would need to prioritize those ten judicial officers in the event that the Legislature does not fund all ten judicial officers. Mr. Gordon explained that the Board of Juvenile Court Judges (BJCJ) had already prioritized its two judicial officer requests and that the Board of District Court Judges (BDCJ) preferred to maintain its request without prioritizing one district over the other. Mr. Gordon sought feedback from the Council regarding where the request for a ten percent increased judicial compensation should rank. The Council deliberated at length where the judicial compensation should rank amongst the list of budget requests. The Council noted the importance of recognizing the staff that provides invaluable support to judges, and the message it may send to staff if the pay-for-performance budget item is not prioritized, especially when taking into account that turnover rates of staff have increased significantly. There was a robust discussion regarding the importance of prioritizing judicial compensation in order to be competitive in the notably transformed current labor market and increase the likelihood of a well-qualified pool of applicants. They also discussed at length the increasing caseload of judicial officers, and the unmanageable demand this places on both judicial officers and staff. The Council concurred that there is a basis for all of the ten priority items, noting that the court interpreter request is necessary to meet a constitutional mandate, and essential software is critical to the operation of the court. The Council considered the approach for requesting funds from the legislature, the challenges of being unable to anticipate what the legislature will fund,

the impact that the determination of the EJCC will have on the decision of the legislature, and the effect that prioritizing one request over another may have on the remaining requests.

**Motion:** Judge Lindsley made a motion to rank judicial compensation as the number five priority. Judge Suchada Bazzelle seconded the motion. The motion failed.

**Motion:** Judge Gardner made a motion to rank judicial compensation as the number two priority. There was no second to the motion. The motion failed.

**Motion:** Judge Low made a motion to rank judicial compensation as the number two priority. There was no second to the motion. The motion failed.

**Motion:** Judge Michael DiReda made a motion to rank judicial compensation as the number four priority. Judge Barnes seconded the motion. Judge Brower proposed an amendment to the motion to rank judicial compensation as the number four priority, pay for performance as the fifth priority, and senior judges and case backlog processing as priority six. Judge DiReda accepted the amendment. Judge Barnes seconded the motion. The motion failed.

**Motion:** Judge Gardner made a motion to rank judicial compensation as the number three priority among the other budget priorities approved in August 2023. Judge Low seconded the motion. The motion passed with seven yea votes and six nay votes.

The final list of Judicial Council priorities for legislative requests is as follows:

1. Court interpreter compensation, recruitment, and scheduling
2. New judicial officers (4 District Court judges, 4 District Court commissioners, 2 Juvenile Court judges)
3. Judicial compensation
4. Essential software funding
5. Senior judges and case backlog processing
6. Pay for performance
7. At-will conversion
8. Virtual jury selection staff for the Fourth District
9. American Fork courthouse rent increase
10. Law library assistant
11. Training Coordinator for the Seventh District

**11. OLD BUSINESS/NEW BUSINESS: (All)**  
There was no old or new business.

**12. EXECUTIVE SESSION**  
An executive session was not held.



**10. RECOGNITION OF OUTGOING COUNCIL MEMBERS: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant thanked Judge Augustus Chin and Judge Kara Pettit for their dedication to the Council and the courts. He recognized the invaluable contribution that the judges have made to the Council, and to the Judiciary as a whole. He noted the thoughtful input throughout their time on the Council and commended the judges for their judicial leadership skills.

**11. CONSENT CALENDAR ITEMS**

a) Forms Committee Forms; Kaden Taylor; b) Rules for Public Comment; Keisa Williams.  
Approved without comment.

**12. ADJOURN**

The meeting adjourned.