

# JUDICIAL COUNCIL MEETING

## AGENDA

February 26, 2024

Meeting held through Webex  
and in person

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

*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. Introduction of New Judges.....Ron Gordon  
(Information)
3. 9:15 a.m. Chair's Report.....Chief Justice Matthew B. Durrant  
(Information)
4. 9:20 a.m. State Court Administrator's Report.....Ron Gordon  
(Information)
5. 9:30 a.m. Reports: Management Committee.....Chief Justice Matthew B. Durrant  
Budget and Fiscal Management Committee.....Judge Elizabeth Lindsley  
Liaison Committee.....Justice Paige Petersen  
Policy, Planning, and Technology Committee.....Judge Samuel Chiara  
Bar Commission.....Margaret Plane, esq.  
(TAB 2 - Information)
6. 9:40 a.m. Budget and Grants..... Karl Sweeney  
(TAB 3 - Action) Alisha Johnson  
Jordan Murray  
Lauren Andersen

7. 10:00 a.m. Annual HR Business Report & Discussion.....Bart Olsen  
(TAB 4 – Information) Jeremy Marsh
- 10:30 a.m. Break
8. 10:40 a.m. HR Policy Amendments.....Bart Olsen  
(TAB 5 – Discussion) Jeremy Marsh
9. 10:50 a.m. Legislative Update.....Michael Drechsel  
(Information)
10. 11:10 a.m. Court Commissioner Conduct Committee.....Judge Ryan Harris  
(TAB 6 - Information) Keisa Williams
11. 11:25 a.m. Ad Hoc Problem Solving Court Committee.....Katy Collins  
(TAB 7 – Action)
12. 11:30 a.m. 3<sup>rd</sup> District Criminal Commissioner Appointment.....Judge Laura Scott  
(Action) Judge Todd Shaughnessy
13. 11:40 a.m. Dissolution of the Richmond Justice Court.....Jim Peters  
(TAB 8 – Action)
14. 11:45 a.m. Rules for Final Approval.....Keisa Williams  
(TAB 9 – Action)
15. 11:55 a.m. Old Business / New Business.....All
- 12:05 p.m. Lunch
16. 12:15 p.m. New Senior Judge Application.....Neira Siaperas  
(Action) Hilary Wood

17. 12:20 p.m. Executive Session
18. 12:50 p.m. Adjourn.....Chief Justice Matthew B. Durrant

### **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. Rules for Public Comment  
(TAB 10)
  1. CJA 1-305. Board of Senior Judges
  2. CJA 3-104. Presiding judges
  3. CJA 3-108. Judicial assistance
  4. CJA 3-111. Performance evaluations
  5. CJA 3-113. Senior judges
  6. CJA 3-403. Judicial branch education
  7. CJA 3-501. Insurance benefits upon retirement
  8. CJA 6-304. Grand jury panel
2. Juvenile Court Drug Testing Policy  
(TAB 11)

Tab 1

**JUDICIAL COUNCIL MEETING  
Minutes**

**January 16, 2024**

**Meeting held through Webex  
and in person  
Matheson Courthouse**

**450 S State Street  
Salt Lake City, UT 84111**

**9:00 a.m. – 11:55 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. Michael DiReda  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. James Gardner  
Hon. Keith Barnes  
Hon. Samuel Chiara  
Hon. Thomas Low  
Justice Paige Petersen  
Judge Amber Mettler  
Judge Jon Carpenter  
Margaret Plane, esq.

**AOC Staff:**

Ron Gordon  
Shane Bahr  
Jim Peters  
Sonia Sweeney  
Hilary Wood  
Neira Siaperas  
Keisa Williams

**Excused:**

Hon. Elizabeth Lindsley  
Michael Drechsel  
Nick Stiles

**Presenters:**

Brody Arishita  
Nicole Gray  
Jordan Murray  
Paul Baron  
Janet Ellege  
Tucker Samuelsen  
Todd Eaton

Alisha Johnson  
Karl Sweeney  
Bart Olsen  
Nini Rich  
Megan Haney  
Tiffany Power  
Stacy Haacke  
Clayson Quigley

**1. WELCOME AND APPROVAL OF MINUTES: (Justice Paige Petersen)**

Justice Paige Petersen welcomed everyone to the meeting.

**Motion:** Judge Brian Brower made a motion to approve the December 18, 2023 meeting minutes. Judge Keith Barnes seconded the motion, and the motion passed unanimously.

## **2. STATE COURT ADMINISTRATOR: (Ron Gordon)**

Ron Gordon reported that he will present the judiciary budget request to the Executive Offices and Criminal Justice Appropriations Subcommittee (EOCJ) on January 30, 2024. Mr. Gordon and Neira Siaperas presented a high-level overview of the budget priorities to the EOCJ co-chairs last week, and it seemed to go well. The co-chairs were very clear that there will not be very much money this year as compared to last year. Mr. Gordon spent a great deal of time talking about the need for interpreters, and they understand the need to invest in these resources. Mr. Gordon also spent some time talking about why the Judicial Council is asking for multiple Judicial Officers instead of just the one that is usually requested, as well as compensation for both judges and employees. The final EOCJ votes are scheduled to take place on February 5, 2024.

Last month, the Judicial Council approved the System Review - Phase II. Mr. Gordon has been working with the National Center for State Courts (NCSC) on the scope of work for this second phase and is now just waiting for them to send over a quote.

The AOC will continue to meet and refine the plans for this project.

Mr. Gordon reminded the Council that staff and members of the Judicial Council are invited to the Capitol to hear Chief Matthew Durrant deliver the State of the Judiciary address this afternoon.

## **3. COMMITTEE REPORTS:**

### **Management Committee Report:**

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

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

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

### **Liaison Committee Report:**

Justice Petersen sent an email this morning reminding judges about the One Voice policy, and recommended the Council members familiarize themselves with the policy in the event they receive any related questions.

Justice Petersen talked about the introduction of The Utah Constitutional Sovereignty Act, which states that state officials can disregard a federal directive if it undermines the principles of state sovereignty. The Liaison Committee is trying to get clarification to determine if that applies to the judiciary.

Justice Petersen discussed another bill that would allow one party, without the consent of the other, to get a judge disqualified for no cause. This was opposed when brought up a few years ago, but this time the bill is sponsored by a different legislator. The disqualification of a judge on a case is currently allowable if both parties agree, but the Committee agreed that this bill as presented would go against the judiciary's core values.

Justice Petersen talked about a few divorce amendments that the Committee is trying to get more information on with some requirements for alimony calculations and computing income, which seems like it would be hard for judges to actually do. She will continue to keep the Council apprised.

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

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

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

The Bar has a weekly standing meeting with their Governmental Relations Committee to review legislation and collaborate on anything the Bar can help with.

#### **4. BUDGETS AND GRANTS: (Karl Sweeney, Alisha Johnson,)**

Karl Sweeney and Alisha Johnson gave the budgets and grants presentation.

#### **FY 2024 One-Time Turnover Savings**

			Actual
#		Funding Type	Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 12/08/2023)	Internal Savings	756,197.76
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 12/08/2023)	Reimbursements	424,868.95
3	Est. One Time Savings for 1,160 remaining pay hours (\$1,250 / pay hour)	Internal Savings (Est.)	1,450,000.00
<b>Total Potential One Time Savings</b>			<b>2,631,066.71</b>

Prior Report Totals (as of PPE 11/10/2023) \$ 2,817,053.09

## FY 24 Forecasted Available One-time Funds

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
<b>Sources of YE 2024 Funds</b>			
*	Turnover Savings as of PPE 12/08/2023 (including anticipated ARPA reimbursement)	Turnover Savings	1,181,067
**	Turnover savings Estimate for the rest of the year (\$1,250 x 1,160 pay hours)	Turnover Savings	1,450,000
(a)	<b>Total Potential One Time Turnover Savings</b>		<b>2,631,067</b>
	Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	750,000
	Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	52,997
	Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-
(b)	<b>Total Operational Savings and Reserve</b>		<b>802,997</b>
(c)	<b>Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		<b>3,434,063</b>
<b>Contingent Legislative Supplemental Funding:</b>			
	American Fork Lease Increases	Legislative Contingent	389,000
	JWI Increase to 2 Hour Minimum	Legislative Contingent	275,000
	JWI Higher Pay for Rural Assignments	Legislative Contingent	146,500
	Senior Judge and Time Limited JA Funding Jan/Feb 2024	Legislative Contingent	160,000
(d)	<b>Subtotal - Contingent Legislative Supplemental Funding</b>		<b>970,500</b>
<b>Uses of YE 2024 Funds</b>			
(e)	Carryforward into FY 2025 (Anticipate request to Legislature for \$3,200,000)	Pre-Covid Carryforward	(2,500,000)
<b>Total Potential One Time Savings = (c) + (d) less Carryforward (e)</b>			<b>1,904,563</b>
<b>Less: Judicial Council Requests Previously Approved</b>			<b>(1,263,950)</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>640,613</b>
<b>Less: Contingent Supplemental Funding</b>			<b>(970,500)</b>
<b>Remaining Forecasted Funds Available for FY 2024 YE Spending Requests if no Supplemental Funding is Received</b>			<b>(329,887)</b>

Updated 12/28/2023

## FY 2024 Ongoing Turnover Savings

#	Funding Type	Actual Amount YTD	Forecasted Amount @ YE
	Internal Savings	(54,821)	(54,821)
	Internal Savings	534,927	534,927
1	Internal Savings	-	300,000
		480,107	780,107
2		(38,502)	(200,000)
		(38,502)	(200,000)
3	<b>Total Actual/Forecasted Turnover Savings for FY 2024 as of 12/21/2023</b>	<b>\$ 441,605</b>	<b>\$ 580,107</b>

Prior Report Totals (as of 11/27/2023, with the contingent amount removed) \$ 375,281 \$ 563,783

ARPA funds remaining are **\$3,141,249.70**

## Wasatch Justice Center

Chris Talbot presented some information on the Wasatch Justice Center project. Originally, he had asked for an additional \$163,000 annually to pay \$3.5 million over 15 years to fund the additional square footage in the building. Unfortunately, a few years have passed with structure costs escalating by at least 30%, and the courts have increased our space by 33%. The overall cost of the project increased from \$8.3 million to \$21.7 million. With the overall project



increasing, the county came to Mr. Talbot concerning the \$3.5 million that the courts were originally promising to contribute, requesting to increase that to 50% of the overall construction costs, totalling \$10.86 million. The courts will occupy 60% of the building. The County has also offered some concessions, making the deal still favorable for the Court. This necessary expansion has been on the court's radar for quite some time, and there are no less expensive options available.

Mr. Talbot's recommended funding solution was to reallocate the \$399,000 Farmington Bond, since the new Davis County Courthouse is not high on this year's budget priority, towards the Wasatch project. Mr. Gordon agreed that we are still getting a favorable financial deal in this project.

**Motion**: Judge Brower made a motion to reallocate the \$399,000 Farmington Bond to the Wasatch Justice Center project as presented. Judge Amber Mettler seconded the motion, and the motion passed unanimously.

### **HB 531**

Mr. Sweeney presented some recommendations related to the HB 531 report:

**Recommendation #1** is to have the District, Juvenile and Appellate Court Administrators and the Director of the Judicial Data and Research Department work with the AOC IT Department to ensure the Judiciary can accurately provide the number of waivers for each Judicial fee when using CORIS, CARE, AIS and Xchange.

**Recommendation #2** is to have IT further review fee changes to ensure the AIS calculations are correct, as well as to have the Appellate Clerks of Court check their published fee schedule whenever there is a fee change to ensure all amounts on the fee schedule are current.

**Recommendation #3** is to have IT work with the Appellate Clerks of Court to separate postage for mailing the Certificate of Good Standing from the Certificate of Good Standing itself so they can be separately tracked as distinct fees. Currently, AIS shows the two items combined as a single amount within "Certificate of Good Standing."

**Recommendation #4** is that the bulk data billings be moved off of QuickBooks and onto an integrated system like Xchange or a standalone system with multi-user access like QuickBooks online, which permits the Courts to track billings and payments, which would allow the Courts to cut off services and send unpaid amounts to OSDC for collection, should a customer not pay.

**Recommendation #5** is that the State Court Administrator or designee (1) review a fee that lacks a statute or other authorizing document and if it is needed, propose the fee with supporting methodology that includes how to publish the fee, or (2) for fees authorized in rule but for which no fee amount has been documented, propose the fee with supporting methodology that includes how to publish the fee.

**Recommendation #6** is that Courts seek to either (1) change the statute that governs the per page copy fees for Certified and Exemplified items or (2) keep the statute as-is and seek \$113,000 in ongoing general funds for unrestricted use by the Courts. These changes would be prospective only. A similar issue exists for Justice Courts that should be referred to the Board of Justice Court Judges.

**Recommendation #6.1** is that the Appellate courts work with AOC IT to modify AIS to capture the \$4 and \$6 Certified and Exemplified fees separate from the per page fees. As currently configured, these two amounts are combined in AIS. The CARE data team was initially unable to separate the per page fees from the \$4 and \$6 document fees but was able to resolve this issue. However, AOC IT should prepare a CARE report that permits this query to be run by CARE users.

**Recommendation #7** is that the Courts work with the legislature's drafting attorneys to make a technical correction to Utah Code 78A-2-301 that includes the Court Complex allocation by court fee just as the statute already does for the 4 other allocation amounts in the statute and simplifies the verbiage.

**Recommendation #8** is that the Courts work with the Legislature to modify UCA 78A-2-501 to remove the \$20 fee that is currently allowed when using OCAP to file "answers" or "responses" and add two new categories which are not explicitly in the current statute, "counterpetitions" and "counterclaims." The recommendation also included adding the ability to prepare a request for a protective order using OCAP as a new "no fee" service and increasing the OCAP fee for divorce petitions.

**Motion:** Judge Brower made a motion to approve the report as presented. Judge Barnes seconded the motion, and the motion passed unanimously.

### **Grants**

Jordan Murray discussed the three grants on the agenda, the Internal Control Self Assessment for FY23, the Eviction Diversion Initiative Grant, and a Federal Grant application to the Commission on Criminal Juvenile Justice.

**Motion:** Judge James Gardner made a motion to approve the submission of the Federal Grant Application to the Commission on Criminal Juvenile Justice. Judge Suchada Bazzelle seconded the motion, and the motion passed unanimously.

## **5. AUTOMATIC EXPUNGEMENTS IN JUVENILE COURTS: (Stacy Haacke)**

Stacy Haacke explained that her memo is (1) seeking appointment of Juvenile Court Presiding Judges as signing judges for the automatic expungement of successful non-judicial adjustments, and (2) seeking approval of two draft orders pursuant to CJA Rule 4-208. One is a draft standing order for Presiding Judges to sign in their respective judicial districts. The other order will be auto-generated by the courts' system upon identification of a case that qualifies for automatic expungement. Under CJA 4-403, the electronic signature of a judge may be automatically affixed to automatic expungement orders without the need for specific direction

from the assigned judge when issued using a form approved by the Judicial Council.

**Motion:** Judge Bazzelle made a motion to approve all requests as presented. Judge Barnes seconded the motion, and the motion passed unanimously.

## **6. RECERTIFICATION OF MUNICIPAL JUSTICE COURTS: (Jim Peters)**

Pursuant to Rule 9-108(1)(B) of the Code of Judicial Administration, the Board of Justice Court Judges has discussed the applications received for recertification of the state's municipal justice courts. For each court, such applications should 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 municipality's legal counsel (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 approval of the extensions and waivers described below, the Board recommended that the municipal justice courts set forth on Attachment A be recertified for a four-year term beginning February 1, 2024. This list includes all municipal justice courts currently operating in the state.

### **Suspension and Extension Requests Applicable to All Justice Courts**

Appendix B to the Code of Judicial Administration lists all the standards applicable to justice courts. Section 2(Q)(i) and 2(Q)(ii) of that appendix are incompatible with a courts using Webex as its audio recording system, so the Board recommended that the Judicial Council suspend its technical specifications for the audio recording equipment of all Justice Courts (but not the statutory requirement that proceedings be recorded).

In addition, the Board recommended blanket extensions for two new requirements that have yet to be implemented by multiple courts. These include the requirement that a court have access to UCJIS and the requirement that court staff be current with the training required by the Board (through the clerk certification program). The expectation for recertification was that all staff complete the training from January 2022 or the month after they started employment (whichever is later) through September 2023. The Board's recommendation was that this be complete for all courts by March 1, 2024. The Board further recommended that staff who remain out of compliance as of March 15, 2024 have their CORIS access suspended until they have completed the training.

The Board recommended more time for all courts to have access to UCJIS as well. This will allow certain courts to explore alternatives with BCI that may not require that each of them have their own TAC. For this reason, the Board recommended that the deadline for all Justice Courts to have access to UCJIS be extended to July 1, 2024.

Judge Michael DiReda asked what trickle down effect suspended access to CORIS would have on the clerks. Mr. Peters explained that they'll have plenty of notice to correct the issue before their access is terminated.

**Motion:** Judge Gardner made a motion to suspend the Judicial Council’s requirement for all Justice Courts for four years for recording equipment specification, and to extend the deadline for clerk certification to March 1, 2024. Clerks who are not in compliance by March 15, 2024 will have their access to CORIS suspended. Judge Barnes seconded the motion, and the motion passed unanimously.

**Motion:** Judge Brower made a motion to extend the deadline for all Justice Courts to have access to UCJIS to July 1, 2024. Judge Mettler seconded the motion, and the motion passed unanimously.

**Motion:** Judge Gardner made a motion to recertify all Municipal Courts, subject to the waiver requests that are set forth in the memo. Judge Mettler seconded the motion, and the motion passed unanimously. Judge Paul Farr abstained from voting on the Alta and Sandy certification, and Judge Brower abstained from voting on the Clearfield and Sunset recertifications.

## **7. CERTIFICATION OF NEW JUSTICE COURT JUDGES: (Jim Peters)**

Justice Court judges are confirmed by the Senate but come to the Council for certification if it’s their first time being certified. Four new positions have been filled. One of those is a sitting judge, Judge Birch, who took a position in Sandy.

The three who have not yet been certified are Judge Jamie Topham, Judge Steve Schreiner, and Judge Janet Elledge. They have all been through judge orientation and passed the exam this past week, and Mr. Peters requested that they be certified by the Council.

**Motion:** Judge Farr made the motion to certify the three judges presented by Mr. Peters. Judge Brower seconded the motion, and the motion passed unanimously.

## **8. ARPA IT UPDATE: (Brody Arishita)**

Brody Arishita, Todd Eaton and Clayson Quigley gave a summary of current ARPA projects.

### **Kiosks (Complete)**

60 Kiosks have been set up across the state in courthouses and community centers extending greater access to the courts.

### **Public Portal (Target completion date: December 2024)**

The goal is to provide a portal to allow the public to join a live stream of hybrid or remote hearings. More to come on this project.

### **Development Projects**

Expand court eFiling - The goal is to create an application for attorneys to create new cases and electronically file documents to existing cases in the Court of Appeals and the Supreme Court.

### **Website**

The goal is to modernize the court’s webpage and create a web portal for anyone accessing the website to easily and quickly find information or services needed.

**ChatBot** (Target completion date: April 2024)

The goal is to create a chatbot service to pull information from court resources to help users navigate the information for services needed.

**Xchange** (Target completion date: April 2024)

The goal is to improve the user interface and make the application more accessible and to introduce additional payment options for users.

**New MyCase Features**

The goal is to expand an individual's access to their case information, update and centralize court forms, and give users the ability to file electronically from MyCase.

**Traffic ODR** (Target completion date: December 2024)

The goal is to create a platform where defendants and prosecutors can seek a resolution virtually and then present the resolution to the court via an electronic filing.

**Improve ePayments in MyCase**

The goal is to update technology and improve user interface to make the portal easier to navigate.

**Juvenile MyCase**

The goal is to update the look and feel, allow users to access case documents and information, add features to improve user experience and centralize information for the user.

**9. RULES FOR FINAL APPROVAL: (Keisa William)**

Keisa Williams presented information on rule CJA Rule 3-101, which is up for final approval. Following a 45-day public comment period, the Policy, Planning and Technology Committee recommended that the rule be approved as final with a May 1, 2024 effective date. No public comments were received.

**Motion**: Judge Farr made a motion to approve the proposed changes to rule CJA Rule 3-101 as presented with a May 1, 2024 effective date. Judge Barnes seconded the motion, and the motion passed unanimously.

Bryson King summarized some proposed amendments to subsection D and appendix F of the Code of Judicial Administration. The default retention period for the following positions would be seven years. For all others, the default retention period would be one year.

- Supreme Court Justices
- Judges
- Commissioners
- State Court Administrator
  - Deputy State Court Administrator

- Assistant State Court Administrator
- Appellate Court Administrator
  - Appellate Clerk of Court
- District Court Administrator
  - Assistant District Court Administrator
  - District Court Program Administrator
  - Statewide Treatment Court Program Coordinator
- Justice Court Administrator
  - Assistant Justice Court Administrator
  - Domestic Violence Program Manager
- Juvenile Court Administrator
  - Assistant Juvenile Court Administrators
  - Juvenile Court Improvement Program Director
- AOC Directors and Deputy Directors (where applicable)
- Tribal Outreach Coordinator
- General Counsel and Associate General Counsels
- Trial Court Executives
- Chief Probation Officers
- Clerks of Court (including justice courts)

**Motion:** Judge Barnes made a motion to approve the proposed changes as presented. Judge Jon Carpenter seconded the motion, and the motion passed unanimously.

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

There was no old or new business.

## **11. EXECUTIVE SESSION**

**Motion:** Judge Brower made a motion to move to executive session. Judge Mettler seconded, and the motion passed unanimously.

There was an executive session.

**Motion:** Judge DiReda made a motion to suspend the fees for the language neutral 2-day orientation, the written english language exam, and the oral proficiency interview on a temporary basis. Judge Bazzelle seconded the motion, and the motion passed unanimously.

## **12. ADJOURN**

The meeting adjourned.

## **CONSENT CALENDAR ITEMS**

- 1) Rules for public comment: CJA 3-201, CJA 1-201, CJA Appendix F

DRAFT

**JUDICIAL COUNCIL MEETING  
Minutes**

**January 30, 2024**

**Meeting held through Webex  
and in person  
Matheson Courthouse**

**450 S State Street  
Salt Lake City, UT 84111**

**12:00 p.m. – 1:00 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. Michael DiReda  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. James Gardner  
Hon. Keith Barnes  
Hon. Thomas Low  
Justice Paige Petersen  
Hon. Amber Mettler  
Hon. Jon Carpenter  
Margaret Plane, esq.  
Hon. Elizabeth Lindsley

**AOC Staff:**

Ron Gordon  
Shane Bahr  
Jim Peters  
Sonia Sweeney  
Hilary Wood  
Neira Siaperas  
Keisa Williams  
Nick Stiles  
Stacy Haacke  
Bryson King  
Bart Olsen

**Excused:**

Hon. Samuel Chiara

**Presenters:**

Michael Drechsel

**1. WELCOME: (Judge David Mortensen)**

Judge David Mortensen welcomed everyone to the meeting, and then turned the time over to Michael Drechsel.



## **2. VIRTUAL HEARINGS: (Michael Drechsel)**

In December, the Judicial Council discussed feedback that Mr. Drechsel had received from some of the legislators about virtual and in-person hearings. The concern was that there is a lack of uniformity across the state. With permission from the sponsor of the proposed joint resolution, Senator Stephanie Pitcher, Mr. Drechsel provided a copy of the document to the Council members, which is still in protected form. The joint resolution would amend court rules of procedure regarding in-person and remote proceedings. The proposed rules create a clear delineation about what would be considered remote-only hearings and what would be in-person-only hearings, and clear definitions for what types of hearings would be substantive or non-substantive. The Liaison Committee felt that the whole Judicial Council should be involved in the judiciary's response. Mr. Drechsel talked about a few of the ways the Judicial Council could respond to the proposal, and asked for the Council members' feedback.

Justice Paige Petersen shared some of the thoughts from the members of the Liaison Committee and revisited prior discussions and recommendations from the Green Phase working group. One of the discussion points included whether the manner of holding court hearings should be in administrative rules or rules of procedure.

Several of the Council members expressed how the joint resolution, as proposed, would not be workable in their area of the judiciary, and asked if the legislature would potentially give the judiciary more time to come up with a plan that would be more appropriate. Mr. Drechsel indicated that the time had likely passed for the judiciary to come up with a solution of its own. The legislature is looking for an immediate response at this point. Mr. Gordon reminded the Council about prior discussions about the real possibility of the legislature addressing virtual hearings in the courts if the judiciary did not set standards for in-person and virtual hearings.

Judge Mortensen, and several others, expressed the desire to take a collaborative approach with the legislature. Margaret Plane commented that the state bar also views itself as a stakeholder. They'd like to be involved and are ready to collaborate.

The Council discussed prior recommendations of the Green Phase Workgroup which did not establish a baseline for which hearings were presumptively virtual and which ones were presumptively in-person. Chief Justice Matthew B. Durrant suggested that the Council create a list of proceedings that could be presumptively virtual to take to the legislature. Stacy Haacke and Bryson King shared that the Rules of Civil Procedure Subcommittee members kept coming back to the idea that whether a hearing should be in-person or virtual should be based on party preference, but can use their next meeting to work on the recommended list. The subcommittee also discussed that a party should always have the option to attend a hearing in-person whether it is presumptively virtual, and vice versa.

Mr. Gordon added that the new Virtual Hearings Working Group's first meeting is scheduled for February 8th, but Mr. Drechsel was almost certain the draft resolution will be numbered this week, and that there isn't time to wait for the Working Group to meet.

**Motion:** Judge Farr made the motion that the Council take the position to collaborate with the legislature on the proposed joint resolution and to convene a meeting between the Management Committee and a representative of the Supreme Court to address jurisdictional issues. Justice Petersen seconded the motion, and the motion passed unanimously.

### **3. ADJOURN**

The meeting adjourned.

DRAFT

Tab 2

**JUDICIAL COUNCIL'S  
BUDGET & FISCAL MANAGEMENT COMMITTEE ("BFMC")**

**Minutes  
January 8, 2024  
Meeting held virtually through WebEx  
12:00 p.m. – 1:20 p.m.**

**Members Present:**

Hon. Elizabeth Lindsley  
Hon. Keith Barnes  
Justice Paige Petersen

**Excused:**

Margaret Plane, Esq.  
Hon Brian Brower

**Guests:**

Brett Folkman  
Mark Urry, TCE, Fourth District Court  
Erin Rhead  
Megan Haney  
Tiffany Power

**AOC Staff Present:**

Ron Gordan  
Neira Siaperas  
Shane Bahr  
Brody Arishita  
Nick Stiles  
Tucker Samuelson  
Chris Talbot  
Jordan Murray  
Karl Sweeney  
Alisha Johnson  
Suzette Deans, Recording Secretary

**1. WELCOME / APPROVAL OF MINUTES (Judge Elizabeth Lindsley – “Presenter”)**

Judge Elizabeth Lindsley welcomed everyone to the meeting and asked for a motion to approve the minutes from the last meeting.

**Motion:** Judge Keith Barnes moved to approve the December 4, 2023 minutes, as presented. Justice Paige Petersen seconded the motion, and it passed unanimously.

**2. FY 2024 Financials / Turnover Savings / ARPA Update (Alisha Johnson – “Presenter”)**

One-Time Turnover Savings/ FY 2024 YE Requests - One-time TOS are generated from position vacancies and reimbursements of payroll expenditures with ARPA funds. Alisha Johnson noted that our forecast of one-time TOS for FY 2024 (before any uses are deducted) is estimated to be \$2.6M. This is a substantially lower forecast when compared to FY 2023 actual of \$4.4M in one-time TOS primarily because there are between 40% and 50% fewer unfilled positions today than the average for FY 2023. The FY 2024 YE Requests schedule includes forecasted operational savings of \$750,000 which are added to the forecasted one-time TOS. Last year (FY 2023) we generated over \$1M of one-time operational savings for FY 2023.



## FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 12/08/2023 (920 out of 2,080 hours)

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 11/10/2023)	Internal Savings	756,197.76
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 11/10/2023)	Reimbursements	424,868.95
3	Est. One Time Savings for 1,160 remaining pay hours (\$1,250 / pay hour)	Internal Savings (Est.)	1,450,000.00
<b>Total Potential One Time Savings</b>			<b>2,631,066.71</b>

Prior Report Totals (as of PPE 11/10/2023) \$ 2,817,053.09

- \* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,468.14, \$1,800.93, \$1,048.60, and \$1,112.35. The average per hour turnover savings YTD was \$1,283.77. These numbers do include ARPA reimbursements.
- \* Forecast was reduced to \$1,250 per pay hour based upon prior periods and average.



## FY 2024 Year End Requests and Forecasted Available One-time Funds - Period 6

Forecasted Available One-time Funds			# One-time Spending Plan Requests		Current Requests Amount	Judicial Council Approved Amount
Description	Funding Type	Amount				
<b>Sources of YE 2024 Funds</b>			1	Employee Wellness Resources		107,450
* Turnover Savings as of PPE 12/08/2023 (including anticipated ARPA reimbursement)	Turnover Savings	1,181,067	2	JWI Centralized Scheduler Software		20,000
** Turnover savings Estimate for the rest of the year (\$1,250 x 1,160 pay hours)	Turnover Savings	1,450,000	3	JWI Media Outreach Interpreter Recruiting		10,000
(a) <b>Total Potential One Time Turnover Savings</b>		<b>2,631,067</b>	4	JWI Interpreter Trainer		65,000
Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	750,000	5	OFA Racial and Ethnic Disparity Data Project		30,000
Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	52,997	6	JWI Increase to 2 Hour Minimum		275,000
Anticipated Reserve Uses - Including previously approved and pending requests	Jud. Council Reserve Uses	-	7	JWI Higher Pay for Rural Assignments		146,500
(b) <b>Total Operational Savings and Reserve</b>		<b>802,997</b>	8	Q1/Q2 Performance Bonuses		450,000
(c) <b>Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		<b>3,434,063</b>	9	Senior Judge and Time Limited JA Funding Jan/Feb 2024		160,000
<b>Contingent Legislative Supplemental Funding:</b>						
American Fork Lease Increases	Legislative Contingent	389,000				
JWI Increase to 2 Hour Minimum	Legislative Contingent	275,000				
JWI Higher Pay for Rural Assignments	Legislative Contingent	146,500				
Senior Judge and Time Limited JA Funding Jan/Feb 2024	Legislative Contingent	160,000				
(d) <b>Subtotal - Contingent Legislative Supplemental Funding</b>		<b>970,500</b>				
<b>Uses of YE 2024 Funds</b>						
(e) Carryforward into FY 2025 (Anticipate request to Legislature for \$3,200,000)	Pre-Covid Carryforward	(2,500,000)				
<b>Total Potential One Time Savings = (c) + (d) less Carryforward (e)</b>		<b>1,904,563</b>				
Less: Judicial Council Requests Previously Approved		(1,263,950)	<b>Current Month One-time Spending Requests</b>		-	
Less: Judicial Council Current Month Spending Requests		-	<b>Previously Approved 1x FY 2024 YE Spending Request</b>			1,263,950
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests		640,613				
Less: Contingent Supplemental Funding		(970,500)				
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests if no Supplemental Funding is Received		(329,887)				

Updated 12/28/2023

- \* Actual turnover savings as calculated on a pay period basis through 12/08/2023. Data can be found in the Budget Summary Excel workbook on the Personnel tab.
- \*\* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,468.14, \$1,800.93, \$1,048.60, and \$1,112.35. The average per hour turnover savings YTD was \$1,283.77. These numbers do include ARPA reimbursements.
- (b) \$750,000 Operational Savings from TCE / AOC Budgets is a conservative estimate. The number will be updated with information from the field in January/February 2024.
- (d) Governor's Office of Planning and Budgeting may recommend substituting ARPA funds for the JWI and Senior Judge requests if ARPA funds are available.

Ongoing Turnover Savings ("OTS")/FY 2025 Carryforward and Ongoing Requests – Alisha Johnson reviewed the period 6 financials and gave an update on OTS. OTS for FY24 actual YTD is \$534,927. Forecasted FY24 OTS is \$300,000 (\$50,000 per month x 6 remaining months in FY 2024) and when combined with the negative \$54,821 carried over from FY23, the forecasted YE 2024 OTS is conservatively estimated to be \$780,107.

As of 12/21/2023, the OTS schedule shows \$200,000 of hot spot raises as uses that have been pre-authorized by delegated authority from the Judicial Council to the State Court Administrator and Deputy and that is expected to be used by the end of FY 2024. AOC Finance is forecasting

that we will have \$580,107 in OTS available for discretionary use. The FY 2025 Carryforward and Ongoing Requests show the \$450,000 in approved performance raises as the only deduction leaving \$130,107 of OTS for other uses.



#### FY 2024 Ongoing Turnover Savings as of 12/21/2023

#	Funding Type	Actual Amount YTD	Forecasted Amount @ YE
	Net Carried over Ongoing Savings (from FY 2023)	Internal Savings (54,821)	(54,821)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings 534,927	534,927
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 6 months remaining)	Internal Savings -	300,000
	<b>TOTAL SAVINGS</b>	<b>480,107</b>	<b>780,107</b>
2	2024 Hot Spot Raises Authorized - renews annually until revoked	(38,502)	(200,000)
	<b>TOTAL USES</b>	<b>(38,502)</b>	<b>(200,000)</b>
3	<b>Total Actual/Forecasted Turnover Savings for FY 2024 as of 10/27/2023</b>	<b>\$ 441,605</b>	<b>\$ 580,107</b>

Prior Report Totals (as of 11/27/2023, with the contingent amount removed) \$ 375,281 \$ 563,783

- \* Ongoing turnover savings only happens when a vacant position is filled at a lower rate and / or with lower benefits.
- \* There are currently 34 positions that have turned over within the past 90 days that are currently listed as having unknown benefits. As those employees select their benefits, if they select lower benefits, there will be additional savings.
- \* Currently, 27.45 FTE are vacant.
- 1 We are currently estimating \$50,000 of ongoing savings a month for the remainder of the fiscal year.
- 2 Authority was delegated from the Judicial Council to the State Court Administrator/Deputy in October 2022 to expend up to \$200,000 annually.
- 3 The Judicial Council funded one Commissioner position in 3rd Dist. effective 7/1/2023. A Legislative Request for ongoing funding for that position will also be presented during the upcoming Legislative Session. If approved, that will increase our available amount by \$262,550. That amount was shown on previous forecasts but has now been removed as the probability of receiving these funds is slim.



#### FY 2025 Carryforward and Ongoing Requests - as of FY 2024 Period 6

12/28/2023

##### Funding Sources

	One Time	Ongoing
OTS carried over from FY 2023		\$ (54,821)
Forecasted YE OTS from FY 2024*		\$ 834,927
<b>Subtotal</b>		<b>\$ 780,107</b>
Less: Judicial Council Delegated to State Court Admin for discretionary use		\$ (200,000)
<b>Expected Carryforward Amount from Fiscal Year 2024</b>	<b>\$ 2,500,000</b>	<b>\$ -</b>
<b>Total Available Funding</b>	<b>\$ 2,500,000</b>	<b>\$ 580,107</b>

##### Ongoing Requests

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 Performance Raises		\$ 450,000		\$ 450,000
<b>Subtotal</b>	<b>\$ -</b>	<b>\$ 450,000</b>	<b>\$ -</b>	<b>\$ 450,000</b>
<b>Balance Remaining Inclusive of Presented</b>	<b>\$ 2,500,000</b>	<b>\$ 130,107</b>		
<b>Balance Remaining After Judicial Council Approvals</b>			<b>\$ 2,500,000</b>	<b>\$ 130,107</b>
<b>+ Balance Remaining Inclusive of "Presented"</b>	<b>\$ 2,500,000</b>	<b>\$ 130,107</b>		

##### LEGEND

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

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

Highlighted items have been previously approved by the Judicial Council.

Highlighted items that are Fiscal Note Funds

\* - Items have been presented and approved in prior years.

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

\* - The Judicial Council funded one Commissioner position in 3rd Dist. effective 7/1/2023. A Legislative Request for ongoing funding for that position will also be presented during upcoming Legislative Session. If approved, that will increase our available amount by \$262,550. That amount was shown on previous forecasts but has now been removed as the probability of receiving these funds is slim.

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

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

ARPA Expenditures – We have expended \$11.8M of ARPA funds as of December 21, 2023. This leaves an available balance of \$3.1 of the \$15 million that was awarded to the courts.



### ARPA Expenses as of 12/21/2023 (prior to the close of period 6)

	A Judicial Council Approved	B Actual FY 2022 Expended	C Actual FY 2023 Expended	D Actual FY 2024 Expended	E Total Expended Amount	F Balance Available
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	4,613,254.75	1,843,147.68	9,498,870.10	2,874,529.90
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,135.35	427,287.87	2,142,386.33	159,713.67
Legal Sandbox Response to COVID	324,500	-	171,636.48	45,857.39	217,493.87	107,006.13
<b>TOTAL</b>	<b>15,000,000</b>	<b>3,750,430.78</b>	<b>5,792,026.58</b>	<b>2,316,292.94</b>	<b>11,858,750.30</b>	<b>3,141,249.70</b>

Expenditures added since last report: \$ 404,285.44

ARPA funds expended cut off date is 12/31/2026

#### BKLG FY 2024 Details

FY 2024 Expenses as of PPE 12/08/2023

Personnel Expenses:	\$ 349,560.14
Mileage Expenses:	\$ 1,344.16
Sr. Judge Travel Expenses:	\$ 925.36
	\$ 351,829.66
COVID Testing Kit purchase:	\$ -
	<b>\$ 351,829.66</b>

#### BKLG Run Rate Calculation

##### Usage for Last 3 Pay Periods

11/10/2023	11/24/2023	12/8/2023
\$42,946.68	\$30,328.87	\$44,979.94

Average last 3 Pay Periods:	\$39,418.50
Balance Available (from table above):	\$ 159,713.67
Remaining Pay Periods at Last 3 Average:	4
Anticipated Last Pay Period End Date:	2/2/2024
Prior report anticipated last pay period:	2/16/2024
Judicial Council YE Allocation:	\$ 160,000.00
Total Remaining w/YE Allocation:	\$ 319,713.67
Remaining Pay Periods at Last 3 Average w/YE:	8
Anticipated Last Pay Period End Date w/ YE:	3/30/2024

#### Historical Trends (period 6 not yet closed)

##### IT Access to Justice Use - Last 3 Periods

Period 4	Period 5	Period 6
\$ 775,519.04	\$ 172,276.31	\$ 255,645.19

##### BKLG - Last 3 Periods

Period 4	Period 5	Period 6
\$ 72,410.99	\$ 74,597.22	\$ 75,458.21

##### Legal Sandbox - Last 3 Periods

Period 4	Period 5	Period 6
\$ 19,572.47	\$ 9,484.92	\$ -

New Expenses for Period 6:	\$ 331,103.40
True Up for Period 5:	\$ 73,182.04
<b>TOTAL INCREASE FROM PRIOR:</b>	<b>\$ 404,285.44</b>

### 3. Wasatch Courthouse Expansion Design / Cost Update (Chris Talbot – “Presenter”)

Chris Talbot gave a cost update for the Wasatch courthouse expansion. The new schematic design increased the construction scope of work for the entire building (both Court and County spaces) by adding about 6,400 sf or 20% more space. The Court design committee was responsible for adding about 2,600 sf of dedicated court space within the 6,400 sf of new space we felt was needed to operate efficiently. The design meetings went very well, and the Court committee agrees with the larger updated design. Including 2,028 sf of court common areas, the total Courts square footage has increased from 13,985 sf to 18,613 sf (33%).

Now that the schematic design is complete, Chris had the opportunity to meet with the County on 12/19/2023 to discuss our deal before they seek permission for construction bond financing from their Commission. The County expressed concerns over the cost of the larger building. In addition to the 33% larger Court space, our revised scope increased parking and certain other costs all

compounded by two years of historically high cost escalation since the feasibility study cost estimate was completed in Oct 2021. **Due to these factors, the project cost for the entire building has increased from \$8.3M to \$21.72M based on current projections.**

Unfortunately, our previously proposed \$3.565M construction contribution (43% of the original feasibility estimated cost of \$8.3M) is no longer enough of a contribution for the County to build out what has been designed. **They are requesting that we commit to a 50% funding contribution of the new \$21.72M projection, which is \$10.86M.** After additional discussion with the County, the project will not be able to move forward or be approved by the Commissioners without this increased contribution from the Courts.

The following factors should be considered in increasing our original \$3.565M construction contribution to the current \$10.86M requested by the County:

1. Even though the County is requesting funding for 50% of the project cost, we would occupy 60% of the space in the new design. This new space includes two courtrooms, support staff spaces, a mediation conference room, Guardian ad Litem (GAL) offices and Probation offices.
2. The County has agreed to not charge us rent on any of the 18,613 sf of dedicated and common court space or operations/maintenance (O&M) costs for the 20-year bond term. This is a very generous concession. The County has offered to stop this payment due to the cost increases. The value of this concession based on market rent is +/- \$20 psf when our lease expires in June of 2025 which means we are saving at least \$372K per year (18,613 sf x \$20 psf market rate) on rent over the next 20 years (\$7M minimum total savings).
3. Other less expensive options are not available. Based on other prioritized courthouse needs across the State, we will not be able to receive approval for State funding to build a new Heber courthouse (\$26M - \$30M) in the near future. The \$10.86M paid over 20 years is the most economical and expeditious way to get two new courtrooms built in this fast-growing community.
4. They have agreed to let us pay the \$10.86M over 20 years (annual payment). This would be \$842K annually over 20 years at a 4.6% interest rate (this could change depending on final construction costs and bond interest rates (see chart below)). The original term was over 15 years. After using all previously approved funds (see summary below) we need an additional \$364K annually to cover the shortfall from the updated scope.



## Wasatch Justice Center Expansion Courts Contribution Jan 2024

	Square Footage	Rent	Construction Cost	Total Annually
<b>New Proposed Lease for 15 years</b>				
New Space = 18,613 SF	18,613	\$ -		\$ -
(13,985 sf original spce + 2,600 sf added dedicated space + 2,028 sf common area)				
<b>No rent or O&amp;M for 20 years</b>				
Court's Construction Contribution				
\$10.863M / 20 years			\$ 842,000	\$ 842,000
Includes hard / soft costs and 4.6% annual interest rate				
Courts portion of A&E service fees			\$ -	\$ -
Included in soft costs above				
<b>Total Estimated Annual Lease Payment</b>				<b>\$ 842,000</b>

## Summary of Wasatch Lease Credits and Costs

<b>Estimated Cost of New Lease / Const</b>		<b>\$ 842,000</b>
Current Lease Payment in Budget plus Improvement Fee		\$ (95,413)
Reallocated Richfield bond Staying in Budget		\$ (219,155)
Additional Rent Approved		\$ (163,301)
<b>Portion of Farmington bond</b>		<b>\$ (364,131)</b>
<b>Total needed after credits</b>		<b>\$ -</b>
<b>Farmington bond</b>		<b>\$ 399,000</b>
Portion used for Wasatch		\$ (364,131)
<b>Remaining bond funds for project contingency</b>		<b>\$ 34,869</b>

**Recommended funding solution** – Chris proposed that we cover this additional annual cost with the Farmington bond reallocation (\$399K annually) that was approved last year by the Legislature to remain in the Court Facilities budget. We were originally going to use this amount to offset the Davis County construction cost (\$139M). We have now shifted to seeking State funding for the project which does not permit us to use our reallocation to offset construction costs. (Note: DFCM limits the use of bond reallocation to offsetting new construction O&M costs only.) **As shown above, we forecast using all but \$34,869 of the Farmington bond amount for the Wasatch expansion.**

**Motion:** Judge Keith Barnes made a motion to approve sending to Judicial Council for further discussion and approval. Justice Paige Petersen seconded the motion, and it passed unanimously.

## 4. HB 531 Supplemental Report (Karl Sweeney – “Presenter”)

Karl Sweeney gave an overview of the HB531 Supplemental report and recommendations. This report is made up of items discovered during the HB 531 work that are outside the scope of the HB 531 report reviewed in November 2023.

- Upgrade CARE, AIS, and Xchange to track fees waived by the Juvenile and Appellate Courts and any waivers requested to use the Xchange database.

Recommendation: Have the District, Juvenile and Appellate Court Administrators and the Director of Judicial Data and Research work with the AOC IT Department to ensure the Judiciary can efficiently provide the number of waivers for each Judicial fee when using CORIS, CARE, AIS, and Xchange.

- It was determined that CDs were being charged at a rate of \$10 in the Appellate Courts despite CJA rule 4-202.08 changing to \$15 in November 2020. In addition, AIS was not correctly programmed for the fee increases that took place on July 2020, as the breakdown between Court Security, Alternative Dispute Resolution, Children’s Legal Defense fund, and Judge’s Retirement were correct in total but inaccurately split between the funds. This has been corrected.

Recommendation: IT to review fee changes to ensure the AIS calculations are correct. We also recommend the Appellate Clerks of Court check their published fee schedule whenever there is a fee change to ensure all amounts on the fee schedule are current.

- The \$3.90 postage and the \$25.00 Certificate of Good Standing should be receipted as two different fees for two different services to properly credit their respective revenue distribution codes. For HB 531 purposes, keeping these two revenue sources distinct is required.

Recommendation: IT to work with the Appellate Clerks of Court to separate postage for mailing the Certificate of Good Standing from the Certificate of Good Standing itself so they can be separately tracked as distinct fees. Currently, AIS shows the two items combined as a single amount within “Certificate of Good Standing.”

- The billings for bulk data are handled by the District Court team but are not on an integrated system. In practice this means bulk data billings are made in QuickBooks, which generates an invoice, but because QuickBooks is only accessible on the single computer from which billings are done, it is not linked to any other Court IT system. Cash receipts are deposited into the cash receipts (CR) system in FINET but there is no process for account reconciliation (i.e., amounts billed are paid).

Recommendation: Move bulk data billings off QuickBooks and onto an integrated system like Xchange or a standalone system with multi-user access like QuickBooks online which permits the Courts to track billings and payments, and should a customer not pay, we can cut off service and send unpaid amounts to OSDC for collection.

- The following fees do not appear to have supporting documentation for the fees charged:
  - Certified Court Reporter “appearance fee” for a non-capital case – shown as required of requesting party [here](#). No fee is stated nor is a link to a rule, statute, or other process.
  - Certified Court Interpreter Credentialing Fees paid to Court:
  - Written Exam Fee - \$25,
  - Skill-building Workshop - \$150,
  - Orientation Fee - \$100, or
  - Oral Proficiency Exam - \$200 (Utah Resident)/ \$400 (non-Resident). The authority to charge a fee is found in [CJA 3-306.03 \(1\)\(B\)](#). No documentation on the amount of the fee(s) to charge has been located.
  - Interest Bearing Account fee – As addressed in the HB 531 Report, the authority to charge a fee is found in [CJA 4-301\(2\)\(D\)](#) but until the November 20, 2023, Judicial Council meeting, no documentation on the amount of the fee to charge was available

Recommendation: For Court fees that lack a statute, rule, or other authorizing document, the State Court Administrator or designee (1) review the fee, and if it is needed, propose the fee with supporting methodology that includes how to publish the fee or (2) for fees authorized in rule but for which no fee amount has been documented, propose the fee with supporting methodology that includes how to publish the fee.

- A statute has been misinterpreted in CORIS, CARE, and AIS since at least 1995 when CORIS was implemented. The statute is [78A-2-301\(z\)](#) and (aa). During the review of Certified and Exemplified copies it was determined after conferring with Court General Counsel personnel that the 50 cents per page charge for Certified and Exemplified copies should have been remitted to the General Fund but was instead retained by the Courts. The amount for CY 2022 was approximately \$113,000 that was retained by the Courts but by statute should have gone to the General Fund.

Recommendation: Michael Drechsel is aware of the issue and will bring this up in the 2025 session to either (1) change the statute to allow retention of the funds by the Courts or (2) keep the statute as is and seek \$113,000 in ongoing general funds for use by the Courts.

- During our review of HB 531 fees, we became aware of a deficiency in the AIS system on capturing the \$4 and \$6 certification and exemplification document fees separate from the 50 cents per page fees for copies made. AOC IT should modify AIS to provide this report. The same action needs to be taken in CARE.

Recommendation: We recommend the Appellate courts work with AOC IT to modify AIS to capture the \$4 and \$6 Certified and Exemplified fees separate from the per page fees.

- Five restricted Court accounts receive amounts from filing fees outlined in statute. Fees going to one of the five restricted accounts are based on language in statute that is ambiguous and open to multiple interpretations.

Recommendation: We recommend the Courts work with the legislature's drafting attorneys to make a technical correction to statute 78A-2-301 that includes the Court Complex allocation by court fee just as the statute already does for the 4 other allocation amounts in the statute and simplifies the verbiage.

- UCA 78A-2-501(4)(a) states that the OCAP program can charge a fee of \$20 in addition "to the filing fee established by Sections 78A-2-301 and 78A-2-301.5 if a person files a complaint, petition, answer, or response through the program...."

Recommendation: we recommend the Courts work with the Legislature to modify UCA [78A-2-501](#) to remove the \$20 fee that is currently allowed when using OCAP to file "answers" or "responses" and add two new categories which are not explicitly in the current statute, "counterpetitions" and "counterclaims." We also recommend adding the ability to prepare a request for a protective order using OCAP as a new "no fee" service. Finally, we recommend increasing the OCAP fee for divorce petitions.

**Motion:** Justice Paige Petersen moved to approve to send supplemental report to Judicial Council for approval. Judge Keith Barnes seconded the motion, and it passed unanimously.

## **5. New Grant GAP and Grants Internal Control Self-Assessment for FY 2023 (Jordan Murray – “Presenter”)**

Jordan along with Megan Haney would like to pursue a Federal grant administered by the Commission on Criminal and Juvenile Justice (CCJJ) and Utah Board of Juvenile Justice (UBJJ) in support of The Village Project Mentorship Program. This program provides mentoring to courts involved youth or youth under the jurisdiction of the juvenile courts. This request is for \$8,500. This would support reimbursement of mentorship activities. It would also provide some of the associated costs with testing some of the youths so that they can continue their education.

**Motion:** Judge Keith Barnes moved to approve to send this new grant application to Judicial Council for approval. Justice Paige Petersen seconded the motion, and it passed unanimously.

Jordan next presented the 2023 FY Grants Internal Control Self-Assessment (ICSA) which is prepared annually per UCJA Rule 3-411(9)(A)(i). The ICSA reviews the prior fiscal year and self-assesses our compliance with general accounting controls, our own internal policies and UCJA Rule 3-411. We looked at 12 grants that were active in FY23. We have seen improvement in all 6 of our internal control areas. Two areas that still need work are:

- (1) grant administrators performing monthly reconciliation of their grant units to FINET. The grant administrators track their own budgets and perform reconciliations but not always to FINET. FINET is the permanent financial record of the Courts and reconciling to an excel spreadsheet is not adequate.
- (2) grant reports being delivered to Jordan and Karl Sweeney for review in advance of their deadlines. This is a requirement of the accounting manual 11-07.00.

**Motion:** No motion is needed for this item.

## **6. New Business/Old Business**

### **Eviction Diversion Grant Update**

Jordan Murray reported that on March 16, 2023, the Judicial Council approved an application to the National Center for State Courts for an eviction diversion initiative grant for \$105,000. We received the 1<sup>st</sup> portion of the funding for \$68,975 as scheduled in Fall 2023. Recently, the nonprofit that was going to be the sub-recipient and executer of the project, People’s Legal Aid, has abruptly closed and the executive director resigned. They contacted the National Center for State Courts and they are being flexible with us as we work on looking to identify another nonprofit that we can partner with.

**Motion:** No motion is need for this item.

### **Accounting Manual Update**

Committee didn’t discuss the Accounting Manual changes but they did approve the changes.

**Motion:** Keith Barnes made a motion to approve changes. Justice Paige Petersen seconded the motion, and it passed unanimously

Adjourned at 1:00 p.m.

Next meeting February 12, 2024

Tab 3

**Budget and Grants Agenda  
for the February 26, 2024  
Judicial Council Meeting**

1. FY 2024 Financials ..... Alisha Johnson  
(Tab 1 - Discussion)
  - One Time Turnover Savings
  - FY 2024 Year End Requests and Forecasted Available One-time Funds
  - Ongoing Turnover Savings
  - FY2025 Carryforward and Ongoing Requests
  - ARPA Update
2. Education Budget Shortfall Update .....Lauren Andersen and Karl Sweeney  
(Tab 2 – Information)
3. NCSC Assessment .....Ron Gordon  
(Tab 3 – Action)
4. Grants Quarterly Update .....Jordan Murray  
(Tab 4 – Information)

# Tab 1





## FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 01/19/2024 (1,160 out of 2,080 hours)

			Actual
#		Funding Type	Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 01/19/2024)	Internal Savings	918,066.26
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 01/19/2024)	Reimbursements	528,278.57
3	Est. One Time Savings for 920 remaining pay hours (\$1,000 / pay hour)	Internal Savings (Est.)	920,000.00
<b>Total Potential One Time Savings</b>			<b>2,366,344.83</b>

Prior Report Totals (as of PPE 12/08/2023) \$ 2,631,066.71

- \* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,192.69, \$754.87, \$742.21, and \$793.74. The average per hour turnover savings YTD was \$1,246.85. These numbers do include ARPA reimbursements.
- \* Forecast was reduced to \$1,000 per pay hour based upon prior periods and average.



## FY 2024 Year End Requests and Forecasted Available One-time Funds - Period 7

Forecasted Available One-time Funds				# One-time Spending Plan Requests			Adjusted Requests	Judicial Council Approved
Description		Funding Type	Amount				Amount	Amount
<b>Sources of YE 2024 Funds</b>				1	Employee Wellness Resources			107,450
*	Turnover Savings as of PPE 01/19/2024 (including anticipated ARPA reimbursement)	Turnover Savings	1,446,345	2	JWI Centralized Scheduler Software			20,000
**	Turnover savings Estimate for the rest of the year (\$1,000 x 920 pay hours)	Turnover Savings	920,000	3	JWI Media Outreach Interpreter Recruiting			10,000
	<b>Total Potential One Time Turnover Savings</b>		2,366,345	4	JWI Interpreter Trainer	\$ 20,000		65,000
				5	OFA Racial and Ethnic Disparity Data Project			30,000
	Less: LFA Recommendation to Contribute to Budget Savings		(600,000)	6	JWI Increase to 2 Hour Minimum	\$ 110,000		275,000
(a)	<b>Total Potential One Time Turnover Savings Less LFA Recommendations</b>		1,766,345	7	JWI Higher Pay for Rural Assignments	\$ 50,000		146,500
				8	Q1/Q2 Performance Bonuses			450,000
	Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	635,244	9	Senior Judge and Time Limited JA Funding Jan/Feb 2024	\$ 40,000		160,000
	Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	52,997					
	Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-					
(b)	<b>Total Operational Savings and Reserve</b>		688,241					
(c)	<b>Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		2,454,585					
	<b>Contingent Legislative Supplemental Funding:</b>							
	American Fork Lease Increases	Legislative Contingent	389,000					
	JWI Increase to 2 Hour Minimum	Legislative Contingent	110,000					
	JWI Higher Pay for Rural Assignments	Legislative Contingent	50,000					
	Reimburse JWI #2, #3 and #4 from 1x funds	Legislative Contingent	50,000					
	Senior Judge and Time Limited JA Funding Jan/Feb 2024	Legislative Contingent	160,000					
(d)	<b>Subtotal - Contingent Legislative Supplemental Funding</b>		759,000					
	<b>Uses of YE 2024 Funds</b>							
(e)	Carryforward into FY 2025 (Anticipate request to Legislature for \$3,200,000)	Pre-Covid Carryforward	(2,500,000)					
	<b>Total Potential One Time Savings = (c) + (d) less Carryforward (e)</b>		713,585					
	<b>Less: Judicial Council Requests Previously Approved</b>		(1,263,950)					
	<b>Adjust for Changes to Original Requests</b>		426,500					
	<b>Remaining Forecasted Funds Available for FY 2024 YE Spending Requests</b>		(123,865)					
	<b>Less: Contingent Supplemental Funding</b>							
	<b>Remaining Forecasted Funds Available for FY 2024 YE Spending Requests if no Supplemental Funding is Received</b>		(123,865)					

<b>Adjustments to Original Requests</b>	<b>(426,500)</b>	
<b>Previously Approved 1x FY 2024 YE Spending Request</b>		<b>1,263,950</b>
<b>Updated to Reflect Likely Amounts</b>		

Updated 02/07/2024

- \* Actual turnover savings as calculated on a pay period basis through 01/19/2024. Data can be found in the Budget Summary Excel workbook on the Personnel tab.
- \*\* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,192.69, \$754.87, \$742.21, and \$793.74. The average per hour turnover savings YTD was \$1,246.85. These numbers do include ARPA reimbursements.
- (b) We originally estimated \$750,000 Operational Savings from TCE / AOC Budgets is a conservative estimate. The number will be updated with



## FY 2024 Ongoing Turnover Savings as of 02/07/2024

#		Funding Type	Actual	Forecasted
			Amount YTD	Amount @ YE
	Net Carried over Ongoing Savings (from FY 2023)	Internal Savings	(54,821)	(54,821)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings	619,168	619,168
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 5 months remaining)	Internal Savings	-	250,000
	<b>TOTAL SAVINGS</b>		<b>564,348</b>	<b>814,348</b>
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(72,330)	(200,000)
	<b>TOTAL USES</b>		<b>(72,330)</b>	<b>(200,000)</b>
<b>3</b>	<b>Total Actual/Forecasted Turnover Savings for FY 2024</b>		<b>\$ 492,018</b>	<b>\$ 614,348</b>

*Prior Report Totals (as of 12/21/2023, with the contingent amount removed)*    \$ 441,605    \$ 580,107

- \* Ongoing turnover savings only happens when a vacant position is filled at a lower rate and / or with lower benefits.
  - \* There are currently 31 positions that have turned over within the past 90 days that are currently listed as having unknown benefits. As those employees select their benefits, if they select lower benefits, there will be additional savings.
  - \* Currently, 32.95 FTE are vacant.
- 1 We are currently estimating \$50,000 of ongoing savings a month for the remainder of the fiscal year.
  - 2 Authority was delegated from the Judicial Council to the State Court Administrator/Deputy in October 2022 to expend up to \$200,000 annually.
  - 3 The Judicial Council funded one Commissioner position in 3rd Dist. effective 7/1/2023. A Legislative Request for ongoing funding for that position will also be presented during the upcoming Legislative Session. If approved, that will increase our available amount by \$262,550. That amount was shown on previous forecasts but has now been removed as the probability of receiving these funds is slim.



## FY 2025 Carryforward and Ongoing Requests - as of FY 2024 Period 7

2/7/2024

### Funding Sources

	One Time	Ongoing
OTS carried over from FY 2023		\$ (54,821)
Forecasted YE OTS from FY 2024*		\$ 869,168
Subtotal		\$ 814,348
Less: Judicial Council Delegated to State Court Admin for discretionary use		\$ (200,000)
Expected Carryforward Amount from Fiscal Year 2024	\$ 2,500,000	\$ -
Total Available Funding	\$ 2,500,000	\$ 614,348

### Ongoing Requests

		Presented		Judicial Council Approved	
		One Time	Ongoing	One Time	Ongoing
1	Perfromance Raises		\$ 450,000		\$ 450,000
	Subtotal	\$ -	\$ 450,000	\$ -	\$ 450,000
	Balance Remaining Inclusive of Presented	\$ 2,500,000	\$ 164,348		
	Balance Remaining After Judicial Council Approvals			\$ 2,500,000	\$ 164,348
+	Balance Remaining Inclusive of "Presented"	\$ 2,500,000	\$ 164,348		

#### LEGEND

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

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

Highlighted items have been previously approved by the Judicial Council.

Highlighted items that are Fiscal Note Funds

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

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

\* - The Judicial Council funded one Commisioner position in 3rd Dist. effective 7/1/2023. A Legislative Request for ongoing funding for that position will also be presented during upcoming Legislative Session. If approved, that will increase our available amount by \$262,550. That amount was shown on previous forecasts but has now been removed as the probability of receiving these funds is slim.

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

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



## ARPA Expenses as of 2/7/2024 (period 8 not yet closed)

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
	<b>Judicial Council Approved</b>	<b>Actual FY 2022 Expended</b>	<b>Actual FY 2023 Expended</b>	<b>Actual FY 2024 Expended</b>	<b>Total Expended Amount</b>	<b>Balance Available</b>
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	4,613,254.75	2,291,165.93	9,946,888.35	2,426,511.65
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,135.35	530,965.13	2,246,063.59	56,036.41
Legal Sandbox Response to COVID	324,500	-	171,636.48	45,857.39	217,493.87	107,006.13
<b>TOTAL</b>	<b>15,000,000</b>	<b>3,750,430.78</b>	<b>5,792,026.58</b>	<b>2,867,988.45</b>	<b>12,410,445.81</b>	<b>2,589,554.19</b>

Expenditures added since last report: \$ 551,695.51

ARPA funds expended cut off date is 12/31/2026

### BKLG FY 2024 Details

FY 2024 Expenses as of PPE 01/19/2024

Personnel Expenses:	\$ 528,278.57
Mileage Expenses:	\$ 1,759.56
Sr. Judge Travel Expenses:	\$ 927.00
	\$ 530,965.13
COVID Testing Kit purchase:	\$ -
	<b>\$ 530,965.13</b>

### BKLG Run Rate Calculation

#### Usage for Last 3 Pay Periods

12/22/2023	1/5/2024	1/19/2024
\$25,841.43	\$43,892.79	\$34,016.40

Average last 3 Pay Periods:	\$34,583.54
Balance Available (from table above):	\$ 56,036.41
Remaining Pay Periods at Last 3 Average:	2.0
Anticipated Last Pay Period End Date:	2/16/2024
Prior report anticipated last pay period:	2/2/2024
Judicial Council YE Allocation:	\$ 160,000.00
Total Remaining w/YE Allocation:	\$ 216,036.41
Remaining Pay Periods at Last 3 Average w/YE:	6
Maximum Pay Period If No Legislature Funds:	4/15/2024

### Historical Trends (period 8 not yet closed)

#### IT Access to Justice Use - Last 3 Periods

Period 6	Period 7	Period 8
\$ 380,109.53	\$ 302,977.88	\$ 20,576.03

#### BKLG - Last 3 Periods

Period 6	Period 7	Period 8
\$ 75,458.21	\$ 69,660.86	\$ 34,016.40

#### Legal Sandbox - Last 3 Periods

Period 6	Period 7	Period 8
\$ 8,523.37	\$ 14,053.01	\$ -

New Expenses for Period 8:	\$ 54,592.43
True Up for Period 6 and 7:	\$ 497,103.08
TOTAL INCREASE FROM PRIOR:	\$ 551,695.51

\* Last report occurred before period 6 closed so the true-up includes periods 6 and 7.  
Period 8 only has 7 days of data which includes 1 pay period.

# Tab 2

## 2. FY 2024 Ongoing Turnover Savings Spending Request – Education budget shortfall

The Judicial Council approves uses of Ongoing Turnover Savings. This is a request to the Budget and Fiscal Management Committee and the Judicial Council to allocate the use of some of these Ongoing Turnover Savings for ongoing personnel needs that will be utilized in FY 2025.

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**Date:** 2.15.2024

**Department or District:** Education

**Requested by:** Lauren Andersen

**Request title:** FY25 Education Budget

**Amount requested:**

<b>One-time \$</b>	<u>N/A</u>
<b>Ongoing \$</b>	<u>241,399</u>

**Purpose of funding request:**

This request, if funded, balances Education's operating budget and eliminates its reliance on one-time turnover savings to pay for its training programs for court employees and judicial officers.

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

In FY25 Education is projecting a shortfall of \$241,399 (best case scenario) to \$339,449 (worst case scenario) if it continues to maintain all of the programs that it is offering in FY24.

The shortfall is many years in the making. General funds to support judicial education operating expenses (non-personal) have remained flat for many years while Education's operating expenses have increased each year. For example, state per diem rates for lodging and meals have increased, with plans to match the GSA per diem rate in 2024. Mileage reimbursements for employees attending in-person training events have also increased. The size of the judiciary has also grown, which has required larger venues with greater hotel accommodation and larger meeting spaces.

Carryforward requests have supported Education since FY22. As education needs and expenses have increased so has Education's annual carryforward request to use 1x funds (these 1x funds primarily originate from turnover savings from vacant positions).

- FY22 \$127,500
- FY23 \$203,500
- FY24 \$224,700
- FY25 (estimate) \$241,399

Ongoing funding will allow Education to continue to support:

- Judicial officer in-person conferences, retreats and courses
- New Judge Orientation at least twice a year
- Year-round courses for judicial assistants, juvenile probation officers, administrative staff, supervisors and managers
- Employee Leadership Academy

## 2. FY 2024 Ongoing Turnover Savings Spending Request – Education budget shortfall

- Formal employee mentoring program
- Out-of-state training opportunities for judicial officers
- Technology associated with online, on-demand learning

Should significant cuts be made to Education's ongoing budget, we would happily reduce this request. However, experience demonstrates that judicial officers gain much more benefit by attending Education events in person and we would rather have the ongoing funds approved to run the program – while proposing various cost reductions each year in different areas that enable us to not need to seek additional funds for at least several years.

### **Alternative funding sources, if any:**

One-time carryforward funds.

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

Education will need to cut down on the number of in-person educational offerings it supports. Training will be moved online so that we can reach the statewide audience without incurring per diem rates for lodging, meals and mileage reimbursements.

Possible cuts could include shortening all conferences to minimize overnight stays at conference locations, as well as driving distance to the conference locations. Education could also reduce out-of-state travel scholarships, although this amount has been significantly decreased in recent years, and we need to retain at least \$25,000 for this purpose.

### **AOC Finance and State Court Administrators' Recommendation**

One-time funds should not be used for ongoing funding needs. Doing so is a violation of sound economic and financial principles. The Judicial Council has moved away from funding any personnel needs with 1x funds. We should likewise apply this principle to ongoing operating needs.

An ongoing funds request was prepared for the June 2023 Judicial Council meeting but was withdrawn when the Commissioner request surfaced and a 1x carryforward request was substituted and approved to fund FY 2024's shortfall. We strongly recommend that for FY 2024, Education's request for \$241,400 in ongoing funds be approved just as soon as the ongoing turnover savings forecast for FY 2024 shows \$240,000+ of "excess" turnover savings. As shown in Exhibit A, we are currently at \$130K. We expect the "excess" ongoing turnover savings forecast to grow to +/- \$240,000 by March or April 2024 and we will bring this request to the BFMC meeting as soon as it does. This will free up \$240,000 of 1x funds that will not be needed from FY 2025 carryforward.

Based on the rationale outlined above, we strongly recommend approving the Education request in advance of the June 2024 Judicial Council meeting to be used effective for FY 2025.



## EXHIBIT A



## FY 2025 Carryforward and Ongoing Requests - as of FY 2024 Period 7

2/7/2024

*Funding Sources*

	One Time	Ongoing
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Forecasted YE OTS from FY 2024*		\$ 869,168
<b>Subtotal</b>		<b>\$ 814,348</b>
Less: Judicial Council Delegated to State Court Admin for discretionary use		\$ (200,000)
<b>Expected Carryforward Amount from Fiscal Year 2024</b>	<b>\$ 2,500,000</b>	<b>\$ -</b>
<b>Total Available Funding</b>	<b>\$ 2,500,000</b>	<b>\$ 614,348</b>

*Ongoing Requests*

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 Performance Raises		\$ 450,000		\$ 450,000
<b>Subtotal</b>	<b>\$ -</b>	<b>\$ 450,000</b>	<b>\$ -</b>	<b>\$ 450,000</b>
<b>Balance Remaining Inclusive of Presented</b>	<b>\$ 2,500,000</b>	<b>\$ 164,348</b>		
<b>Balance Remaining After Judicial Council Approvals</b>			<b>\$ 2,500,000</b>	<b>\$ 164,348</b>
<b>+ Balance Remaining Inclusive of "Presented"</b>	<b>\$ 2,500,000</b>	<b>\$ 164,348</b>		

**LEGEND**

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**BFMC approval to submit request to Judicial Council does not imply Judicial Council must approve the recommendation.****If more funds are available than the total of requests received, prioritization is optional.**

FY 2025 Forecast				EXHIBIT B
Education - Training Revenues & Expenses		Base Budget	Base + JCTST contribution	Explanations
Base Budget		\$ 186,100	\$ 186,100	
JCTST Fund			\$ 98,050	Justice Court TST account usually gives \$50,000 as a coordination fee and \$45,080 to help with LMS
Carryforward Use = Deficit		\$ 339,449	\$ 241,399	Carryforward for FY 2024 = \$224,700
Total Revenues		\$ 525,549	\$ 525,549	
Expenses				
2510	Administration	\$ -	\$ -	
2510	Tech expenses	\$ 112,349	\$ 112,349	LMS, Opensesame, Adobe Captivate licenses, hotspot, cameras, mics and wires for recording conferences, etc.
2510	Team training	\$ 12,000	\$ 12,000	For 3-4 to attend NASJE or Adobe Conference
2510	Membership fee	\$ 1,200	\$ 1,200	Membership fee for 5
2520	Annual Judicial	\$ 93,000	\$ 93,000	Around 225 attendees. Less than \$1000 per person
2520	Appellate Conference	\$ 7,000	\$ 7,000	12 attendees.
2520	District Conference	\$ 75,000	\$ 75,000	At least 87 attendees.
2520	Employee classes	\$ 75,000	\$ 75,000	For all court employees. Includes live, courses delivered Webex and in-person trainings.
2520	Employee conference/District conferences	\$ 35,000	\$ 35,000	For 250-275 attendees.
2520	Juvenile Conference	\$ 35,000	\$ 35,000	At least 33 attendees.
2520	New Judge Orientation	\$ 5,000	\$ 5,000	Only for District and Juvenile. Justice Court has separate NJO fundly separately. Appellate invited but does not attend all of the orientation.
2520	Judicial Out of State Conference scholarships	\$ 60,000	\$ 60,000	Serves 20-25 judicial officers
2520	Miscellaneous specialty training	\$ 15,000	\$ 15,000	Includes specialty judges programs (water law, tax, settlment conference, etc.), employee mentorship program and employee leadership series.
Total Expenses		\$ 525,549	\$ 525,549	

Net \$ - \$ -

Increases for FY 2025 assumed funded through carryforward

*Restart Leadership Academy	5,000
*Mentorship Program	5,000
*LMS Increase	9,000
	<u>19,000</u>

# Tab 3



# Proposal

State of Utah Judicial Council

Phase 2 Assessment of the Utah Judiciary

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## DATE

January 25, 2024

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## PREPARED FOR

Utah State Court  
Administrator's Office

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## PREPARED BY

National Center for  
State Courts

Court Consulting  
Services

**National Center for State Courts**

*Court Consulting Services*

Laurie Givens, Vice President

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300 Newport Avenue  
Williamsburg, VA 23185-4147  
Phone: (303) 293-3063  
Fax: (303) 308-4326

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**ncsc.org**





## TABLE OF CONTENTS

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Introduction.....	1
Project Description .....	1
NCSC Qualifications .....	5
Consultant Qualifications	<b>Error! Bookmark not defined.</b>
Project Timeline.....	<b>Error! Bookmark not defined.</b>
Budget .....	<b>Error! Bookmark not defined.</b>

## INTRODUCTION

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The National Center for State Courts (NCSC) proposes to work with the Utah Judicial Council, (Council) to conduct an assessment of the Utah Judiciary.

On March 6, 2019, the NCSC submitted an Interim Report to the Utah Judicial Council in response to a request to provide advice and assistance to a special Steering Committee of the Utah Judicial Council in a project to assess the perceptions and needs of the judges and employees of the Utah State Courts. The Interim Report listed the views and perceptions of almost 50 participants selected by the Steering Committee, representing a broad spectrum of the branch. There was interest by the Council in engaging NCSC to conduct a Phase 2 assessment to get additional feedback from court employees and judicial officers regarding the issues that were raised during the initial assessment and an agreement was signed. However, due to the pandemic, the work under the agreement was never started. The Council has expressed interest in proceeding with the Phase 2 assessment of the Judiciary. NCSC submits this proposal to conduct Phase 2 of the Council's assessment and to assist the Council to plan and implement solutions to the identified perceptions.

## PROJECT DESCRIPTION

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The NCSC proposes to do an assessment of the court employees and judicial officers. NCSC will develop, administer, and compile the results of a survey of all court employees and all judicial officers, facilitate focus group discussions in response to the survey results with employees and judicial officers throughout the state, submit an interim report to the Steering Committee on the themes of the survey results and focus groups, and submit a final report to the Steering Committee with an in-depth analysis and potential solutions and strategies to move forward.

### **NCSC proposes the review include:**

- What are the opinions of court staff and judicial officers with regards to the state of the Utah judiciary?
- Have those opinions changed from the 2019 assessment?



**Scope:**

- Review Phase 1 interim report and other background materials.
- Conduct a survey of all court employees and judicial officers.
- Conduct in-person focus groups with a virtual option if stakeholders are not available during the site visit.
- Draft interim report.
- Draft final report.

**Project Plan**

**Task 1. Virtual Kick-off Meeting**

Upon execution of the contract, the NCSC project team will set up a video conference with State Court Administrator Ron Gordon and Deputy State Court Administrator Neira Siaperas (project liaisons) and other designees to develop a final schedule of tasks that align with this proposal. At that time, the parties will discuss and clarify specific goals and objectives for the Phase 2 Assessment.

- Review, clarify and confirm the scope of work and the objectives and timelines for the surveys and structured discussions and consider any needed revisions to the work plan.
- Review and confirm the nature, form and scope of the products that the NCSC will deliver, as well as the intended recipients of those products.
- Identify communication channels, reporting relationships, and confirm the identity of a person who will be responsible for scheduling, obtaining required information, and performing other administrative tasks necessary to facilitate the project.
- Discuss the creation of a Steering Committee and its composition to help with this work effort.
- Identify data and background material that the project liaisons or Steering Committee members can provide to the NCSC project team.
- Establish the process for identifying individuals who will participate in the focus group discussions with the NCSC project team.
- Identify the role and responsibilities of the State Court Administrator for scheduling focus groups.

**Task 2. Steering Committee Kick-off Meeting**

Upon the appointment of the Steering Committee, the NCSC project team will set up a video conference with the Steering Committee and the project liaisons. The primary



purpose of the kickoff meeting will be to further define the goals and focus of the survey and the focus groups and to discuss the frequency of project updates to the Steering Committee.

### **Task 3. Survey**

After reviewing the provided background material, the NCSC project team will work with the Steering Committee to develop a survey for all court employees and all judicial officers.

The survey will focus on the following broad areas:

- Governance
- Communication
- Culture
- Onboarding and Training
- Experiences with the AOC, such as Court Finance, Court Facilities, Court Security, Court Human Resources, Court Education, and Court IT
- Harassment Policies and Procedures
- Other areas as determined by the Steering Committee

Survey development will include video conferences or e-mail communications between the NCSC project team and persons designated by the Steering Committee, as needed, to clarify the survey objectives, identify the demographics requested, getting input from, and approve the survey questions and format of the survey responses.

### **Task 4. Focus Group Discussions**

The NCSC project team will travel to Utah to facilitate four days of on-site focus group discussions in response to the survey results and schedule virtual focus group discussions for those not available during the site visit. These focus groups will include employees and judges from all court levels and districts as well as employees of the AOC.

The project team will use these discussions to:

- Gain a more in-depth analysis of the broad themes to be addressed by the Steering Committee, such as challenges or opportunities for improvement that the Utah judiciary is facing.
- Prompt any further suggestions.
- Encourage the group to prioritize the broad themes.

- Facilitate problem solving to identify solutions and strategies to address identified concerns.

### **Task 5. Data Analysis**

The NCSC project team will analyze data received from the survey and focus groups to inform the preparation of a draft report. This analysis will enable the NSCS to provide a draft report of the findings.

### **Task 6. Debrief**

Once the NCSC project team completes the data analysis from the survey results and the focus groups, the project team will conduct a virtual debrief meeting to discuss emerging themes and areas of opportunities with the project liaisons.

### **Task 7. Draft Report/Revisions**

The NCSC project team will prepare a draft report based on its observations and comments received during the focus groups and its analysis of the survey results. The preliminary report will be prepared in draft form and delivered to the project liaison for distribution to stakeholders as deemed appropriate by the State Court Administrator's Office. Once comments/feedback is received, the NCSC team will incorporate the feedback and prepare a final version of the report.

### **Task 8. Final Report**

The NCSC will submit a final report to the project liaison that:

- Includes an in-depth analysis of the broad themes that should be addressed by the Utah judiciary.
- Recommends potential solutions and strategies to move forward.

### **Task 9. Presentation of Final Report**

The NCSC project team will schedule a video conference with the project liaisons and the Steering Committee to present the final report and to discuss strategies to implement recommended solutions and strategies to move forward.

## NCSC QUALIFICATIONS

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The NCSC is an independent non-profit corporation with the mission to improve the administration of justice through leadership and service to state courts and to justice systems around the world. Founded by the Conference of Chief Justices in 1971, the NCSC is the pre-eminent judicial reform organization in the United States and a national and global leader in helping courts improve the administration of justice and delivery of services. The NCSC is governed by a diverse Board of Directors of 26 members elected by the state chief justices and state court administrators. Its professional and administrative staff of about 300 employees is located at the organization's headquarters in Williamsburg, Virginia. The NCSC's annual operating budget is approximately \$90 million, including revenues from assessments paid by the state court systems, government and private grants and contracts, tuition and user fees for education programs, conferences, and other services, sales of publications, and private contributions.

The NCSC has been providing research, education, information, technology, and direct consulting services to state and local court systems for 50 years. The NCSC brings a broad range of resources to justice system studies, including an expert staff, a history of work with diverse jurisdictions nationally and internationally, and institutional links to other national court-related organizations. The NCSC's familiarity with the unique nature of courts and justice systems enhances its ability to work effectively and efficiently with judicial officers, administrators, court personnel, and representatives of court-related agencies.

## CONSULTANT QUALIFICATIONS

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**Catherine Nelson Zacharias** is a Principal Court Management Consultant and joined the National Center for State Courts in 2023. She works in the Court Consulting Services group and her work is primarily focused on organizational assessments, strategic planning, and compensation and classification reviews.

Before coming to the NCSC, Catherine was legal counsel with the Missouri Office of State Courts Administrator (OSCA) from 1998 - 2023. Her duties as legal counsel included reviewing contracts, advising on employment issues, reviewing, tracking legislation, legal research, and reviewing and developing court procedures as well as working on court automation projects and rules, electronic filing design and rules. She was also provided guidance for various Supreme Court committees such as the Missouri State Judicial Records Committee, the Missouri Court Automation Committee and its subcommittees, the Family Court Committee, and other Supreme Court committees as needed. Prior to working at to OSCA, Catherine was an administrative hearing officer at the Missouri Department of Revenue where she conducted DWI administrative hearings and appeared in court on trial de novos on license suspensions. Before that she was a litigation attorney for the Missouri Department. of Social Services handling trial de novos on child support and income maintenance cases and Medicaid claims in probate matters. She worked for Legal Services of Eastern Missouri during and after law school in the elder law and consumer unit.

Catherine received her Bachelor of Art degree in Economics from the University of Missouri, Columbia in 1989 and her J.D. from St. Louis University School of Law in 1993. She is a fellow of the Institute of Court Management.

**Mandy S. Allen** is a Senior Court Management Consultant with the National Center for State Courts. Ms. Allen works on the Leadership and Governance Team for the National Center for State Courts, focusing on caseflow management, workload, and governance. Prior to working with NCSC, Mandy worked for the Colorado Judicial Branch for 23 years; first as Jury Commissioner for a six-county judicial district, and then as Clerk of Court for 19 years. While working for the courts, she served on committees including the Colorado Supreme Court Civil Rules Committee, ITS Standing Committee, Clerks' Legislative Committee and the Clerks' Advisory Committee. Ms. Allen also served as mentor clerk to several Clerks of Court in Colorado. Before working with the Colorado Judicial Branch, Ms. Allen served as IV-D

Administrator for Montrose County, Colorado and as Court Clerk/Probation Officer for the Montrose Municipal Court. Mandy has a Bachelor of Arts degree in Criminal Justice.

**Nathaniel Newman** is a project associate for the Court Consulting Services Division of the National Center for State Courts. He works mainly with the leadership and governance and caseload management teams, providing administrative support and other services as necessary.

Mr. Newman previously worked as a digital literacy teacher at The Victor School, a therapeutic high school and middle school located in Acton, Massachusetts and run by the Justice Resource Institute. Before that, he worked on political campaigns, serving as both a field organizer and a call time manager.

Nathaniel received a Bachelor of Arts in Politics from Bates College.

,

## PROJECT TIMELINE

Task	Months for Project Start								
	1	2	3	4	5	6	7	8	9
Task 1 Virtual Kick-off Meeting									
Task 2 Steering Committee Kickoff									
Task 3 Surveys									
Task 4 Focus Group Discussions									
Task 5 Data Analysis									
Task 6 Debrief									
Task 7 Draft Report/Revisions									
Task 8 Final Report									
Task 9 Presentation of Final Report									

## BUDGET

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The total cost of the project will be a firm fixed price of \$54,991. A line-item budget is provided below. The NCSC uses labor categories and labor rates, and this cost includes professional and administrative time and indirect costs. An example of some of the costs included in the NCSC's indirect cost rates is equipment, supplies, telephone, printing/photocopying, postage, audits, and other items. The indirect costs are based on the approved labor category rate chart used for all contracts.

Tasks	Cost
Task 1 Virtual Kick-off Meeting	\$1,464
Task 2 Steering Committee Kickoff	\$1,464
Task 3 Surveys	\$4,765
Task 4 Focus Group Discussions	\$26,694
Task 5 Data Analysis	\$5,619
Task 6 Debrief	\$1,464
Task 7 Draft Report/Revisions	\$5,619
Task 8 Final Report	\$1,319
Task 9 Presentation of Final Report	\$1,464
Project Management	\$5,119
Total	<b>\$54,991</b>

# Tab 4





# UTAH STATE COURTS

## COURT GRANTS REPORT October – December 2023

Administrative Office of the Courts  
Finance Department

February 2024

# Grants Portfolio Summary

## Active Grants

As of December 31, 2023 the Administrative Office of the Courts holds six (6) active grants comprised of three (3) federally awarded grants and three (3) non-federally awarded grants.

## New Grants

No new grants were awarded between October and December 2023.

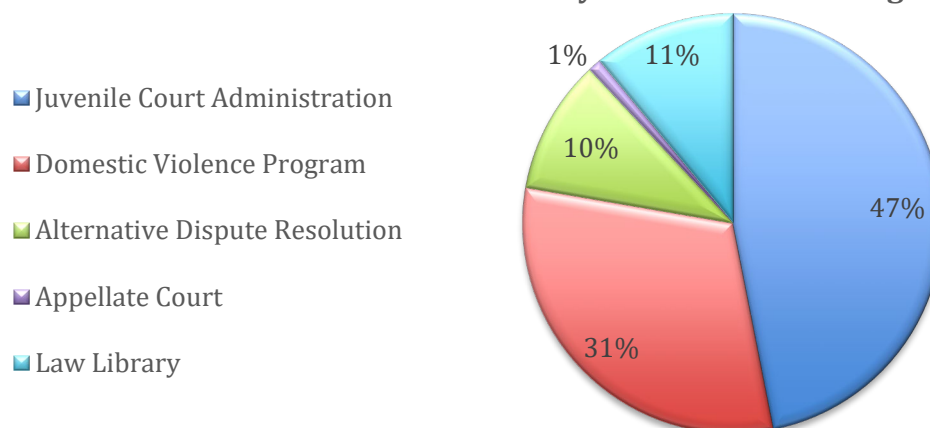
## Grant Application Proposals

One Grant Application Proposal (GAP) was prepared for the Budget & Fiscal Management Committee and Judicial Council in December, 2023:

1. Utah Board of Juvenile Justice Grant Program – Commission on Criminal & Juvenile Justice (\$8,500)

## Active Grants Detail

Award Funds Total Distribution by Grant Administering Unit



Unit	Grant Title	F	NF	Grant Administering Unit
2957	State Court Improvement Program			Juvenile Court Administration
2962	State Access & Visitation Program			Alternative Dispute Resolution
2999	Tribal Outreach Coordinator			Domestic Violence Program
TBD	Pilot Pro Bono Program			Appellate Court
2936	Stop Violence Against Women Act (VAWA)			Domestic Violence Program
2980	Eviction Diversion Initiative (EDI)			Law Library
Active Grants Total		3	3	

Federal Award (F)  
Non Federal Award (NF)

## Alternative Dispute Resolution

**Grant:** Access & Visitation Program **Grantor:** Federal Administration for Children & Families **Unit:** 2962

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*Between October 1, 2023 and December 31, 2023 the Co-Parenting Mediation Program received 45 referrals.*

## Appellate Courts

**Grant:** Pilot Pro Bono Program  
**Grantor:** Utah Bar Foundation **Unit:** TBD

---

*Three continuing legal education (CLE) sessions were hosted in November by the Appellate Courts, Appellate Practice Section, and the Utah State Bar. The sessions covered a general overview of the appellate process, appellate brief writing, and appellate oral arguments. Additional sessions are planned for January and February.*

## Domestic Violence Program

**Grants:** STOP Violence Against Women Act (VAWA) & subaward from the Domestic Violence Coalition (UDVC)  
**Grantors:** Utah Office for Victims of Crime and Utah Domestic Violence Coalition **Units:** 2936, 2999

---

*The Domestic Violence Program (DVP) is revising the civil protective order forms with a workgroup composed of stakeholders across the justice system. Between October and December 2023, the DVP worked with court staff to fix rejected protective orders from the National Crime Information Center (NCIC) rejected protective order report.*

*The DVP worked with the Commission on Criminal and Juvenile Justice's (CCJJ) Safe at Home Program, and other stakeholders, to develop resources for court patrons seeking to keep their address confidential for safety purposes. A pamphlet was developed and 2,000 copies of the pamphlet have been sent out across the courts in Utah. The DVP is also working with the Safe at Home Program to ensure implementation within the courts according to statutory requirements. The DVP is developing policies and procedures for the Domestic Violence Criminal Compliance Docket Pilot Program. DVP staff trained 267 professionals about domestic violence, trauma, protective orders, and related subject matter.*

*Additionally, the DVP is working with staff in the Fifth District to implement a pilot program where petitioners in protective order and stalking injunction cases can submit audio and video evidence for the judge or commissioner to review at the ex parte stage. DVP staff developed two bench cards which have been approved by the Office of General Counsel and the judicial boards. An additional two bench cards will be forthcoming.*

*The Utah Domestic Violence Coalition grant supported DVP staff's training of court staff and other stakeholders in training events held in the First and Eighth Districts. DVP staff met with Native American Nation leadership to discuss protective order needs. DVP staff collaborated with the Utah Domestic Violence Coalition to address domestic violence and protective order issues in rural areas of Utah.*

## Juvenile Court Administration

**Grant:** Court Improvement Program (CIP) **Grantor:** Federal Administration for Children & Families **Unit:** 2957

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*The Court Improvement Program (CIP) hosted the Office of Indian Health and Family Services at the Matheson Courthouse for an all-day retreat on October 5th. The Utah Department of Health & Human Services (DHHS) organized presentations that included the DHHS Office of Leadership, Development and Training, One Utah, Utah Division of Indian Affairs, DHHS Office of Legislative Affairs and the DHHS Division of Customer Experience. An overview of the Utah State Courts, in addition to an overview of the CIP and court tribal liaison role, was shared with the group as well.*

*Throughout the month of November, the CIP coordinated multiple presentations of initial analysis completed by the Social Research Institute that has been supporting the CIP's implementation evaluation of the hearing quality bench card.*

*On December 1st, the CIP helped host the annual Indian Child Welfare Act (ICWA) conference sponsored by the Indian Law Section of the Bar, held at the University of Utah College of Social Work. The conference featured Professor Matthew Fletcher, law professor from Michigan State University and Paul Spuhan, Navajo Nation Department of Justice (DOJ) Assistant Attorney General.*

## Law Library

**Grant:** Eviction Diversion Initiative  
**Grantor:** National Center for State Courts  
**Unit:** 2980

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*Efforts to identify a new pass-through recipient are ongoing following the unexpected closure of this project's original sub-awardee (People's Legal Aid). The Finance Department continues to hold the first disbursement of award funds from the National Center for State Courts.*

# Grants Financial Summary

## State Fiscal Year 2024, Q2

Data as of December 31, 2023

Data as of December 31, 2023			Actual		Budget	
Unit	Grant Administering Unit	Grant Title	Expenditures (Fiscal Quarter)	Expenditures (LTD)	Award (Grant Total)	Balance
Federal Awards						
2957	Juvenile Courts	[ Court Improvement Program (CIP) CIP Data & Collaboration (min. 30%)	\$ 58,382	\$ 179,327	\$ 452,931	\$ 192,317
			\$ 49,852	\$ 81,287		
2999	Domestic Violence Program	Tribal Outreach Coordinator	\$ 5,584	\$ 108,425	\$ 233,350	\$ 124,925
2962	Alternative Dispute Resolution	State Access & Visitation Program	\$ 31,232	\$ 62,667	\$ 100,000	\$ 37,333
Subtotals Federal			\$ 145,050	\$ 431,706	\$ 786,281	\$ 354,575
Non-Federal Awards						
2936	Domestic Violence Program	Violence Against Women Act (VAWA)	\$ 1,199	\$ 1,199	\$ 64,444	\$ 63,245
2980	Law Library	Eviction Diversion Initiative (EDI)	\$ -	\$ -	\$ 105,191	\$ 105,191
TBD	Appellate Court	Pilot Pro Bono Program	\$ -	\$ -	\$ 10,000	\$ 10,000
Subtotals Non-Federal			\$ 1,199	\$ 1,199	\$ 179,635	\$ 178,436
TOTAL			\$ 146,249	\$ 432,905	\$ 965,916	\$ 533,011

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

Webex video conferencing  
January 5, 2024 – 12 p.m.

**MEMBERS:**

**PRESENT**

**EXCUSED**

Judge Samuel Chiara, <i>Chair</i>	•	
Judge Suchada Bazzelle		•
Judge Jon Carpenter	•	
Judge Michael DiReda	•	
Judge James Gardner	•	

**GUESTS:**

Keri Sargent  
Paul Barron  
Bryson King  
Shane Bahr

**STAFF:**

Keisa Williams  
Brody Arishita  
Minhvan Thach

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

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the December 1, 2023, meeting. With no changes, Judge DiReda moved to approve the minutes as presented. Judge Carpenter seconded the motion. The motion passed unanimously.

**(2) CJA 3-101. Judicial performance standards.**

The public comment period for CJA 3-101 closed on January 4, 2024. No comments were received. The proposed amendments are intended to provide clarity regarding case under advisement performance standards and reporting terms. Following a discussion, the committee did not make any additional amendments.

***With no further discussion, Judge Gardner moved to recommend to the Judicial Council that CJA rule 3-101 be approved as final with an effective date of May 1, 2024. Judge DiReda seconded the motion. The motion passed unanimously.***

**(3) CJA 3-201. Court commissioners.**

Currently, rule 3-201 creates standing commissioner nominating committees in each judicial district with three-year member terms. Because commissioners are appointed so rarely, and there will now be both domestic and criminal commissioners, the proposed amendments eliminate standing committees. New nominating committees would be created each time a commissioner vacancy needs to be filled. Paragraph (3)(C) accounts for the development of a joint committee when court commissioners would serve more than one district, making paragraph (3)(D) unnecessary.

The committee made the following minor corrections to ensure paragraph (3)(C) adequately addresses the procedures for joint nominating committees:

- Added parenthetical (s) to presiding judge, district, and designee throughout paragraph (3)(C) (lines 41, 42, 44, 46, 49, and 50)

***Following further discussion, Judge Gardner moved to recommend to the Judicial Council that CJA rule 3-201 be approved for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.***

**(4) CJA 1-201. Judicial Council membership – election.**

The proposed amendments add a Business and Chancery Court (BCC) judge to the Judicial Council. Under 78A-2-104, Council members must be elected by the judges in their respective court level. Given that, the sole BCC judge may not be exempt from the election requirement and will simply have to elect themselves when necessary.

***Following a discussion, Judge Gardner moved to recommend to the Judicial Council that CJA 1-201 be published for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.***

**Technology report/proposals:**

Appendix F. Utah Court Records Retention Schedule.

The Technology Advisory Subcommittee recommends adoption of the proposed amendments to Appendix F of the Code of Judicial Administration, overhauling the email use and retention policy. Most of the amendments update email use and storage policies to account for current technology. The remaining amendments address retention. All active employee email accounts are vaulted, but the AOC must purchase licenses to retain accounts permanently. The amendments clarify what happens to accounts when an employee resigns or is terminated and at what point email records are transferred to the Utah Division of Archives and Records Service. The default retention period for senior level employees and judicial officers will be seven (7) years and one (1) year for all other employees.

Following a discussion, the committee changed “Department” to “IT Department” in line 311 for clarity purposes. Appendix F does not require a 45-day public comment period.

***With no further discussion, Judge DiReda moved to recommend to the Judicial Council that Appendix F of the Code of Judicial Administration be approved as final with an effective date of May 1, 2024. Judge Gardner seconded the motion. The motion passed unanimously.***

**Old Business/New Business:**

The committee determined that the May and November meetings will change to the regular 12 p.m. – 2 p.m. schedule. The May 3, 2024 meeting will be moved to May 17, 2024 due to a conflict with the District Court Judges Conference the week of April 30-May 3.

**Adjourn:** With no further items for discussion, the meeting adjourned at 1 p.m. The next meeting will be held on February 2, 2024, at noon via Webex video conferencing.

Tab 4

# Memorandum

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To: Administrative Office Directors, Trial Court Executives, Clerks of Court, and Chief Probation Officers  
From: Human Resources Department  
Re: Review of HR Services and Business Impacts from 2023

---

## **Background**

In early 2020, the Human Resources (HR) Department began tracking workload data to increase internal transparency regarding the services provided by HR, consistent with Rule 3-402. Beginning around January 2021, HR began sharing an annual summary of data with leadership groups and publishing some of that data publicly on this page of the HR website. Any employee or even interested members of the public can view this information, consistent with that spirit of transparency. HR considers it a worthwhile effort and intends to continue collecting and reporting data suitable for widespread knowledge indefinitely.

## **Sensitive Information**

There are some pieces of more sensitive HR data (including year over year data trends in hiring, compensation and employee relations matters) that HR believes is critical for Senior Leadership Groups to understand and discuss together with HR. The sharing and discussion should help leaders be even better equipped to navigate their difficult roles, and should help HR become better positioned to support business needs of the Courts - needs that continue to fluctuate.

Due to the sensitive nature of several pieces of data, HR will present slides during leadership meetings for illustration and discussion purposes, but will not send electronic copies of the slides before or after those meetings.



Tab 5



# Memorandum

**From:** Bart Olsen, Director of HR, Administrative Office of the Courts  
Keisa Williams, General Counsel, Administrative Office of the Courts  
Policy, Planning, and Technology Committee  
Human Resources Policy Review Committee

**To:** Judicial Council

**Re:** Summary of Draft HR Policy Amendments

This memorandum summarizes the context and intended impacts of proposed amendments.

## BACKGROUND

Consistent with [Rule 3-402\(5\)](#), the Human Resources Policy Review Committee (HRPRC) meets regularly to review suggestions for policy amendments and assist the Policy, Planning & Technology Committee, and the Judicial Council to keep policies current and effective.

The Policy, Planning & Technology Committee has approved the accompanying recommended amendments to HR Policy. This memo briefly summarizes each proposed HR Policy amendment and the accompanying reasoning and seeks approval from the Judicial Council for these policy amendments to be effective April 1, 2024.

## 7-HOUR ANNUAL LEAVE ACCRUAL

All employees accrue 4 hours of annual leave when they begin employment. The accrual goes up with years of service in 5-year increments. There have been some exceptions for new hires allowing the maximum of 7-hour accrual rate for certain positions including positions that report to the State Court Administrator and the IT Director.

The Judicial Research and Data Department (JRDD), established last year to address the pressing need for court-related data and research, has functions that are inherently IT-oriented. In light of this, a proposed update recommends extending the 7-hour leave accrual benefit to new hires in JRDD as outlined in HR07-3 with similar IT positions.



This recommendation stems from our commitment to staying competitive in the dynamic IT job labor market. By ensuring that the newly formed JRDD mirrors the leave accrual policy of IT roles, we not only enhance the attractiveness of our employment offerings but also promote consistency within IT-related positions across the judicial branch.

The recommended change serves to maintain equity in leave accrual among various IT job functions within the Judicial Research and Data Department. It is important to note that the policy adjustment aligns with the requirement that eligible employees for the 7-hour accrual are newly hired, FLSA exempt, and at-will, reflecting our dedication to fair and consistent practices.

Policy: [HR07-3](#)

## LEAVE BANK DEFINITION

Employees who accrue more than the annual accrual leave cap of 320 hours automatically donate the excess hours to a bank of hours known as the Leave Bank. Those hours are then available when employees meet eligibility requirements and have also exhausted their regular leave balances. As of now, we have sufficient hours available in the Leave Bank. Employees are limited to 240 hours per calendar year. Historically, we have had only a small number of employees per year facing conditions that would result in Leave Bank use eligibility such as cancer, major surgery, or similar incapacitating injuries or illnesses.

The Leave Bank has proven to be a valuable resource in supporting employees facing serious or life-threatening illnesses or injuries, ensuring the continuity of benefits and salary while facilitating a smooth return to work. This recommended definition loosens the eligibility requirements for the Leave Bank, allowing greater utilization. Management encountered a number of employee situations that were indeed serious but not quite “life-threatening” that the definition appears to require.

To address concerns and improve the applicability of the policy, we have made recommendations that aim to bring clarity to the process and broaden the scope for eligibility. The key recommendations allow for the approval of sick leave banks in situations that, while incapacitating, may not be categorized as life-threatening.

These recommendations provide a more streamlined and accessible approach for employees and management, ensuring that the Leave Bank remains a supportive resource during challenging times. We believe that these changes will foster a more compassionate and responsive work environment.

Policy: [HR07-20\(3\)\(a\)](#)



# The Utah Judicial Branch Department of Human Resources



## VOLUNTEERING

Almost two years ago, the Office of Fairness and Accountability introduced Employee Resource Groups (ERGs) such as Court Employees of Color, Working Parent Employee & Allies, LGBTQAI+, and more.

Since the formation of these groups, HR has received numerous inquiries regarding what constitutes compensable time for employees attending, serving, and interacting with ERGs.

The recommendations bring transparency to the compensation structure for ERG involvement while complying with the Fair Labor Standards Act (FLSA) and help employees understand the expectations and responsibilities associated with being an active participant in ERGs and other types of volunteering.

Policy: [HR Definitions\(45\)](#), [HR13-1](#)

## TELEWORKING

The Department of Government Operations (DGO) which houses the Division of Human Resources (DHRM). DHRM owns the Utah Performance Management System (UPM) which is designed to help managers establish performance expectations and monitor performance of employees. The system is antiquated, difficult to navigate, does not meet Judicial Branch needs, and is not used.

Policy: [HR08-2](#)

## GRIEVANCE PERIOD UPDATE

Currently, career service court employees have a 60-day window to initiate the grievance process following adverse actions. The 60-day window creates an excessive period of uncertainty as to whether their career service employment decision stands. This unnecessarily hampers management's ability to move business forward in a meaningful way for far too long.

Notably, [HB104](#) in the 2022 General Legislative session adjusted the grievance period for an executive branch career service employee from 30 working days to 10 and has not resulted in any significant legal challenges.

Policy: [HR03-4](#)



The Utah Judicial Branch  
Department of Human Resources



## FLSA EXEMPT TIME REPORTING

This is a minor adjustment that establishes a connection between HR07-1(13) and HR08-7, providing clarification on the reporting of absences for FLSA employees.

Policy: [HR08-7](#)

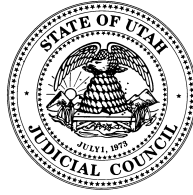
Tab 6

**COURT COMMISSIONER CONDUCT COMMITTEE**  
**Complaints and Disposition (PUBLIC)**

<b>Year</b>	<b>Total Complaints</b>	<b>Number of Commissioners Receiving Complaints</b>	<b>Complaints Resolved by Chair Dismissal</b>	<b>Complaints Resolved by Committee Dismissal</b>	<b>Hearings Held</b>	<b>Sanctions Entered</b>
2020	8	5	6	1	1	1
2021	5	4	4	0	1	1
2022	12	5	12	0	0	0
2023	9	6	9	0	0	0
4-year total	34	9	31	1	2	2

Tab 7





# Administrative Office of the Courts

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

January 2, 2024

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

## MEMORANDUM

**TO: Management Committee – Utah Judicial Council**

**FROM: Katy Collins, Statewide Treatment Court Coordinator**

**RE: Proposal for an Ad hoc State Treatment Court Steering Committee**

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The 2019 PSC Inventory Report recommends the Judicial Council consider the creation of a State Treatment Steering Court Committee. The purpose of the committee is to address treatment court related issues like statewide training, quality assurance, funding, advocacy, research and evaluation, and technology. A State Treatment Steering Court Committee will provide an opportunity for local and state stakeholders to address the concerns of treatment courts statewide while including the perspectives from urban, rural, local jurisdiction and state level stakeholders. The proposed committee membership roles should represent urban and rural districts. The committee will report to the Judicial Council. The Statewide Treatment Court Coordinator will serve as staff to this committee. This writer requests approval for the creation of an Ad hoc committee to help further support and ensure the efficacy of treatment courts in Utah.

UCJA 1-205

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad hoc committees may form sub-committees as they deem advisable. Ad hoc committees shall disband upon issuing a final report or recommendations to the Council, upon expiration of the time set for termination, or upon the order of the Council.

**2(A) Establishment:** The following Ad hoc committee of the Council is hereby established:

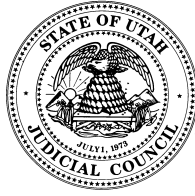
The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

**2(A)(i) Statewide Treatment Court Steering Committee**

**2(B) Composition (Proposed):**

- (2)(B)(vi)(a); one district adult drug court judge;
- (2)(B)(vi)(b); one veteran treatment court judge
- (2)(B)(vi)(c) one family recovery court judge
- (2)(B)(vi)(d); one juvenile drug court judge
- (2)(B)(vi)(e); one juvenile mental health court judge
- (2)(B)(vi)(f); one juvenile drug court judge;
- (2)(B)(vi)(g); one district adult mental health court judge;
- (2)(B)(vi)(h); one justice treatment court judge;
- (2)(B)(vi)(i); one prosecutor working in a treatment court;
- (2)(B)(vi)(j); one trial court executive;
- (2)(B)(vi)(k); one legal defender working in a treatment court;;
- (2)(B)(vi)(l); one state level administrator;
- (2)(B)(vi)(m); one representative from the Office of Substance Use and Mental Health;
- (2)(B)(vi)(n); one treatment court judicial assistant or case manager working in a treatment court;
- (2)(B)(vi)(o); one representative from the Office of Data and Research;
- (2)(B)(vi)(p); one representative from peer support services;
- (2)(B)(vi)(q); Statewide Treatment Court Coordinator

Tab 8



# 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: February 5, 2024

RE: Dissolution of the Richmond Justice Court

---

Following the unexpected resignation of Judge Funk last month, the Richmond City Council decided to dissolve its justice court. Because there is no county level court in Cache County, Section 78A-7-123(1)(a) of the Utah Code requires that Richmond obtain legislative approval to transfer its caseload to the First District Court. Attached to this memo is a letter of intent from Mayor Paul Erickson, which is required by Section 78A-7-123(1)(c) of the Utah Code. Also attached are (i) a resolution from the Richmond City Council, (ii) a Joint Resolution Dissolving the Richmond City Justice Court which, as this point, is working its way through the Senate, and (iii) relevant sections of the Utah Code.

Because Richmond operates a Class IV court, Section 78A-7-123(1)(e) explains that it should have notified the Judicial Council before July 1, 2023 that it was seeking to dissolve. At the time, however, Richmond was unaware that its judge would be resigning. As such, Richmond is asking that the Judicial Council shorten the time required between the city's notice of intent to dissolve and the effective date of the dissolution, as permitted by Section 78A-7-123(3). If approved by the legislature, Richmond would like to dissolve its justice court as of April 1, 2024. That should allow sufficient time to provide notice to the citizenry of Richmond and program the necessary changes at the Administrative Office of the Courts. Thank you for your consideration.

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



**RICHMOND**  
**UTAH**  
*Home of Black & White Days*

(435) 258-2092 • 90 South 100 West , Richmond, Utah 84333

**Mayor**

Paul J. Erickson

**City Council Members**

Lyle Bair

Joel Draxler

Amber Ervin

Bryce Wood

**Chief Admin Officer**

HollyJo Karren

**City Recorder**

Justin B. Lewis

January 19, 2024

Administrative Office of the Courts  
C/O Jim Peters  
Justice Court Administrator  
PO Box 140241  
Salt Lake City, UT 84114-0241

RE: Notice of Intent to Dissolve the Richmond City Justice Court

Dear Mr. Peters:

Pursuant to Utah Code Annotated 78A-7-123(1), this letter provides notice to the Utah Judicial Council that Richmond City intends to seek legislative approval in the current legislative session to dissolve the Richmond City Justice Court. Enclosed with this letter is Resolution 2024-01, adopted by the Richmond City Council on Thursday, January 18, 2024. Utah Code Annotated 78A-7-123(3) allows for the usual time minimum of one year for court dissolution to be shortened upon request. Pursuant to Utah Code Annotated 78A-7-123(3), Richmond City requests that this timeframe be shorted to allow an April 1, 2024 dissolution date or as soon thereafter as the Judicial Council allows the dissolution to take effect.

If you require further information; I can be reached by phone at (435) 757-4579 or by email at [pauljerickson270@yahoo.com](mailto:pauljerickson270@yahoo.com).

Sincerely,

Paul J. Erickson  
Mayor

## RESOLUTION 2024-01

### A RESOLUTION AUTHORIZING THE DISSOLUTION OF THE RICHMOND CITY JUSTICE COURT.

WHEREAS, the City of Richmond ("City") currently has the Richmond City Justice Court (the "Court") to serve the city's justice court needs; and

WHEREAS, the City Council has determined the Court no longer justifies its cost to the City, and

WHEREAS, the City Council has determined that it would be in the best interests of the residents of the City that the Court be dissolved and that the cases be handled by the First Judicial District Court of Utah for the County of Cache which serves any areas of Cache County that do not fall within the jurisdiction of a municipal justice court; and

WHEREAS, Utah Code Annotated § 78A-7-123 sets forth the process and requirements for dissolving a municipal justice court which include, among other things, the approval of the State Legislature; and

WHEREAS, the City wishes to now dissolve the Court by following the foregoing process set forth in the Utah Code;

NOW THEREFORE, be it resolved by the City Council of Richmond, Utah as follows:

1. The City shall take those steps required to meet all the statutory conditions necessary to dissolve the Richmond City Justice Court pursuant to the process provided by Utah Code Annotated § 78A-7-123 and the Mayor and City Recorder are authorized and directed to prepare, sign and file with the appropriate agencies all documents necessary to dissolve the City's Justice Court; and
2. Upon the completion of all the requirements of Utah Code Annotated § 78A-7-123, including the approval of the State Legislature, the Richmond City Justice Court shall be dissolved April 1, 2024.
3. The Resolution shall become effective immediately upon adoption.

Approved and signed this 18th day of January, 2024

**RICHMOND CITY CORPORATION**

  
\_\_\_\_\_  
Paul J. Erickson, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Justin B. Lewis, City Recorder

**JOINT RESOLUTION DISSOLVING RICHMOND CITY****JUSTICE COURT**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Chris H. Wilson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This resolution approves the dissolution of the Richmond City Justice Court.

**Highlighted Provisions:**

This resolution:

- approves the dissolution of the Richmond City Justice Court.

**Special Clauses:**

None

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*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, Richmond City has had a justice court for many years;

WHEREAS, Richmond City has determined that it is no longer feasible for Richmond City to operate a justice court;

WHEREAS, with the dissolution of the Richmond City Justice Court, the caseload of the Richmond City Justice Court will fall upon the First District Court in Cache County;

WHEREAS, the Richmond City Council has given notice to the Utah Judicial Council of the Richmond City Council's intent to dissolve the Richmond City Justice Court and requested an effective date of no later than April 1, 2024; and

WHEREAS, Section 78A-7-123 requires the Legislature to approve by joint resolution the dissolution of a justice court:



28           NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the dissolution  
29 of the Richmond City Justice Court.

30           BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah  
31 Judicial Council and Richmond City.

32           BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a  
33 constitutional majority vote of all members of the House of Representatives and the Senate.

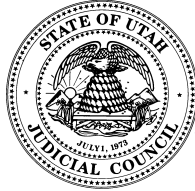


**78A-7-123 Dissolution of justice courts.**

- (1)
  - (a) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.
  - (b) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.
  - (c) The municipality or county shall provide notice to the Judicial Council.
  - (d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.
  - (e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.
- (2)
  - (a) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.
  - (b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.
  - (c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.
- (3) Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

Renumbered and Amended by Chapter 3, 2008 General Session

Tab 9



# Administrative Office of the Courts

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

February 16, 2024

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

## MEMORANDUM

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

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The Policy, Planning, and Technology Committee recommends that the proposed amendments to the following rules be approved on an expedited basis with a February 27, 2024 effective date, to be followed by a 45-day public comment period.

**CJA Rule 3-306.02. Language Access Committee**  
Removes the reference to rule 3-306.05.

**CJA Rule 3-306.03. Interpreter credentialing**  
1) clarifies that the rule does not apply to staff interpreters employed by the court; 2) adds clarifying language consistent with standard contract provisions; and 3) gives the Language Access Program Manager the discretion to grant a rare language exemption without approval from the Language Access Committee.

**CJA Rule 3-306.04. Interpreter appointment, payment, and fees**  
1) allows judicial officers to appoint “approved” interpreters in legal proceedings without first exhausting the list of “certified” interpreters; 2) prevents court employees not hired as staff interpreters from interpreting legal proceedings; 3) removes language regarding staff interpreter employee benefits (those are found in HR policies); and 4) removes the market survey requirement.

**CJA Rule 3-306.05. Interpreter removal, discipline, and formal complaints**  
Rule 3-306.05 would be repealed in its entirety. Interpreters included on the statewide court roster are independent contractors. Contracts with those individuals include the following provision:

“You acknowledge that you are an independent contractor who will serve at the pleasure and will of the AOC to provide services for language interpretation in the Utah State Courts. Nothing in this Agreement shall indicate you are an employee of the Courts...

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

The AOC reserves the right to terminate this Agreement at any time, with or without cause.”

Repealing this rule does not impact the courts’ ability to address an interpreter’s performance or conduct. Judges have the discretion to remove an interpreter from legal proceedings. Court patrons, court employees, and judicial officers may submit concerns regarding contract interpreters to the Language Access Program Manager. The Program Manager will consult with AOC leadership, the Office of General Counsel, and others (where appropriate), to determine what actions, if any, are warranted under the circumstances, and to ensure compliance with the terms of the interpreter’s contract.

**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 3-306.02. Language Access Committee.**

**Intent:**

To outline the responsibilities of the Language Access Committee.

**Applicability:**

This rule applies to the Language Access Standing Committee of the Judicial Council.

**Statement of the Rule:**

The Language Access Committee shall:

(1) research, develop and recommend to the Judicial Council policies and procedures for interpretation in legal proceedings and translation of printed materials; and

(2) issue informal opinions to questions regarding the Code of Professional Responsibility, which is evidence of good-faith compliance with the Code; and

~~(3) discipline court interpreters as provided by rule 3-306.05.~~

*Effective: ~~May 1, 2016~~ February 26, 2024*

**Rule 3-306.03. Interpreter credentialing.****Intent:**

To outline the procedure for credentialing of contract interpreters for legal proceedings.

**Applicability:**

This rule shall apply to legal proceedings in ~~the~~ courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.

**Statement of the Rule:**

(1) Certification programs. Subject to the availability of funding, and in consultation with the committee, the ~~A~~administrative ~~O~~ffice ~~of the courts~~ shall establish programs to certify and approve interpreters in English and the non-English languages most frequently needed in the courts.

(2) Statewide roster. The ~~A~~administrative ~~O~~ffice shall publish a roster of certified, approved, and registered contract interpreters— authorized to provide interpreting services for the judiciary. Addition to or removal from the roster is within the sole discretion of the Administrative Office. Interpreters may be removed from the roster at any time, with or without cause.

(3) Applications. To be considered for addition to the court roster~~certified, approved or registered~~, an applicant shall:

~~(34)~~(A) file an application form approved by the administrative office;

~~(34)~~(B) pay a fee established by the Judicial Council;

~~(34)~~(C) pass a background check;

~~(34)~~(D) provide proof that the applicant is a Utah resident;

~~(34)~~(E) complete training as required by the administrative office;

~~(34)~~(F) obtain a passing score on the court interpreter's test(s) as required by the administrative office;

~~(34)~~(G) complete 10 hours observing a certified interpreter in a legal proceeding; and

(1)(H) take and subscribe the following oath or affirmation: "I will make a true and impartial interpretation using my best skills and judgment in accordance with the Code of Professional Responsibility."

(42) Federal or out-of-state credentials. A person who is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this rule may apply to be a certified contract interpreter without complying with paragraphs ~~(34)~~(~~BA~~) through ~~(34)~~(H), with the exception of paragraph ~~(34)~~(C), but shall pass an ethics examination and otherwise meet the requirements of this rule.

(53) Reporting obligation. A person credentialed under this rule has an ongoing obligation to immediately report to the program coordinator any criminal charges or convictions ~~the interpreter has~~ and any Utah State Court cases the interpreter is personally involved in as a party.

(64) **Rare language exemption.** When the interpreter speaks a rare language and the courts currently lack credentialed interpreters in that language, the Language Access ~~Committee~~ Program Manager ("Program Manager") may, for good cause shown, exempt an interpreter from meeting one or both of the requirements listed in subparagraph (34)(B) and (34)(F). An interpreter seeking an exemption shall make a written request, outlining the reasons for the exemption, to the ~~Language Access Program~~ Manager ~~Coordinator~~. ~~The Language Access Committee shall consider the request at its next meeting following the request, and may require the interpreter making the request to appear at the meeting or to provide more information.~~ (5) If an exemption is granted, the interpreter shall meet the conditions set by the ~~committee~~ Program Manager and shall apply for an extension of the exemption annually, or as otherwise required by the ~~committee~~ Program Manager.

(76) **Background checks and continuing education.** No later than December 31 of each even-numbered calendar year, certified, approved, and registered contract interpreters shall pass the background check for applicants, and certified contract interpreters shall complete at least 16 hours of continuing education approved by the administrative office of the courts.

(87) **Independent contractors.** ~~With the exception of staff interpreters who are employees of the courts,~~ Contract court interpreters, including those listed on the statewide roster, are independent contractors.

*Effective: ~~May 1, 2016~~ February 26, 2024*

**Rule 3-306.04. Interpreter appointment, payment, and fees.****Intent:**

To state the policy of the Utah courts to secure the rights of people under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. in legal proceedings who are unable to understand or communicate adequately in the English language.

To outline the procedures for appointment and payment of contract interpreters for legal proceedings.

~~To provide certified interpreters in legal proceedings in those languages for which a certification program has been established.~~

**Applicability:**

This rule shall apply to legal proceedings in ~~the~~ courts of record and not of record. This rule shall apply to interpretation for non-English speaking people and not to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.

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

(1)(A) Except as provided in paragraphs (1)(B) and, (1)(C) ~~and (1)(D)~~, if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified or approved interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

~~(1)(B) An approved interpreter may be appointed if no certified interpreter is reasonably available.~~

(1)(~~BC~~) A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.

(1)(~~CD~~) A conditionally-approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

(1)(~~CD~~)(i) the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding; and

(1)(~~CD~~)(ii) appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and



(1)(~~CD~~)(iii) a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.

(1)(~~DE~~) **Out of state credentials.** The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the complexity or gravity of the legal proceeding, the potential consequences to the person of limited English proficiency, and any other relevant factor.

(1)(~~EF~~) **Direct verbal exchange.** No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person and the state court employee is acting within guidelines established in the Human Resources Policies and Procedures. An approved, registered or conditionally approved interpreter may be appointed if ~~the~~ court staff does not speak the language understood by the person.

(1)(~~FG~~) **Number of interpreters.** The appointing authority will appoint one interpreter for all participants with limited English proficiency, unless the judge determines that the participants have adverse interests, or that due process, confidentiality, the length of the legal proceeding or other circumstances require that there be additional interpreters.

~~(2) **Court employees as interpreters.** A court employee may not interpret legal proceedings except as follows.~~

~~(2)(A) A court may hire an employee interpreter. The employee will be paid the wages and benefits of the employee's grade and not the fee established by this rule. If the language is a language for which certification in Utah is available, the employee must be a certified interpreter. If the language is a language for which certification in Utah is not available, the employee must be an approved interpreter. The employee must meet the continuing education requirements of an employee, but at least half of the minimum requirement must be in improving interpreting skills. The employee is subject to the discipline process for court personnel, but the grounds for discipline include those listed in rule 3-306.05.~~

~~(2)(B) A state court employee employed as an interpreter has the rights and responsibilities provided in the Utah state court human resource policies, including the Code of Personal Conduct, and the Court Interpreters' Code of Professional Responsibility also applies. A justice court employee employed as an interpreter has the rights and responsibilities provided in the county or municipal human resource policies,~~

~~including any code of conduct, and the Court Interpreters' Code of Professional Responsibility also applies.~~

~~(2)(C) A court may use an employee as a conditionally approved interpreter under paragraph (1)(D). The employee will be paid the wage and benefits of the employee's grade and not the fee established by this rule.~~

**(23) Review of denial of request for interpreter.** A person whose request for an interpreter has been denied may apply for review of the denial. The application shall be decided by the presiding judge. If there is no presiding judge or if the presiding judge is unavailable, the clerk of the court shall refer the application to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the denial.

**(34) Waiver.** A person may waive an interpreter if the appointing authority approves the waiver after determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-English speaking person, so the appointing authority may reject a waiver.

**(45) Translation of court forms.** Forms must be translated by a team of at least two people who are interpreters certified or approved under this rule or translators accredited by the American Translators Association.

**(56) Payment.**

**(56)(A) Courts of record.** The fees and expenses for language access in courts of record shall be paid by the Administrative Office of the courts in courts of record. Payment of fees and expenses shall be made in accordance with the Accounting Manual.

**(5)(B) Courts not of record.** The and by the local government that funds the a court in courts not of record shall set and pay the fees and expenses for interpreters in that court.

**(5)(C) Parties.** The court may assess the fees and expenses as costs to a party as otherwise provided by law. (Utah Constitution, Article I, Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-~~1167~~, ~~77-32a-1~~, 77-32~~ba~~-~~1042~~, ~~77-32a-3~~, 78B-1-146(3), URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and regulations and guidance adopted under that title.)

**(56)(DB) Review.** A person who has been ordered to pay fees and expenses for language access may apply to the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the order.

~~(7) Fees.~~

~~(7)(A) Every three years, the Judicial Council shall review a market survey conducted by the Language Access Program Manager and shall set the fees and expenses to be paid to interpreters during the following three fiscal years by the courts of record. Payment of fees and expenses shall be made in accordance with the Courts Accounting Manual.~~

~~(7)(B) The local government that funds a court not of record shall set the fees and expenses to be paid to interpreters by that court.~~

*Effective: ~~May 1, 2016~~February 26, 2024*

**~~Rule 3-306.05. Interpreter removal, discipline, and formal complaints.~~**

**~~Intent:~~**

~~To outline the procedures for interpreter removal and discipline.~~

**~~Applicability:~~**

~~This rule shall apply to the Language Access Program Manager, the Language Access Program Coordinator, the Language Access Committee, interpreter coordinators and contract interpreters.~~

**~~Statement of the Rule:~~**

~~(1) Removal from legal proceeding. The appointing authority may remove an interpreter from the legal proceeding for failing to appear as scheduled, for inability to interpret adequately, including a self-reported inability, and for other just cause.~~

~~(2) Discipline.~~

~~(2)(A) An interpreter may be disciplined for:~~

~~(2)(A)(i) knowingly making a false interpretation in a legal proceeding;~~

~~(2)(A)(ii) knowingly disclosing confidential or privileged information obtained in a legal proceeding;~~

~~(2)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional Responsibility and this rule;~~

~~(2)(A)(iv) failing to pass a background check;~~

~~(2)(A)(v) failing to meet continuing education requirements;~~

~~(2)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; (2)(A)(vii) failing to appear as scheduled without good cause;~~

~~(2)(A)(viii) unprofessional behavior toward a client, judge, court staff, court security, or Language Access Committee member; and~~

~~(2)(A)(ix) being charged with, or convicted of, a crime.~~

~~(2)(B) Discipline may include:~~

~~(2)(B)(i) permanent loss of certified or approved credentials;~~

~~(2)(B)(ii) temporary loss of certified or approved credentials with conditions for reinstatement;~~

~~(2)(B)(iii) suspension from the roster of certified or approved interpreters with conditions for reinstatement;~~

~~(2)(B)(iv) prohibition from serving as a conditionally approved interpreter;~~

~~(2)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for reinstatement; and~~

~~(2)(B)(vi) reprimand.~~

~~(3) As long as he or she complies with rule 3-306.04, an interpreter coordinator has the discretion to decline to assign an interpreter listed on the statewide interpreter roster.~~

~~(4) Filing of formal complaints.~~

~~(4)(A) Any person may file a formal complaint about a matter for which an interpreter can be disciplined. A party, witness, victim or person who will be bound by a legal proceeding, may file a formal complaint about the misapplication of this rule.~~

~~(4)(B) A formal complaint shall be filed with the Language Access Program Coordinator. However, the Language Access Program Coordinator may file a formal complaint with the Language Access Program Manager, in which case, the program manager will fulfill the program coordinator's responsibilities under this rule.~~

~~(4)(C) The complaint shall allege an act or omission for which an interpreter can be disciplined or that violates this rule. The complaint shall be in writing and signed. The complaint may be in the native language of the complainant, which the AOC shall translate in accordance with this rule. The complaint shall describe the circumstances of the act or omission, including the date, time, location and nature of the incident, and the persons involved.~~

~~(5) Investigation by program coordinator.~~

~~(5)(A) The program coordinator may dismiss the complaint if it is plainly frivolous, insufficiently clear, or does not allege an act or omission for which an interpreter can be disciplined or that does not violate this rule.~~

~~(5)(B) If the complaint alleges that the court did not provide language access as required by this rule, the program coordinator shall investigate and recommend corrective actions that are warranted.~~

~~(5)(C) If the complaint alleges an act or omission for which the interpreter can be disciplined, the program coordinator shall mail the complaint to the interpreter at the address on file with the administrative office of the courts and proceed as follows:~~

~~(5)(C)(i) The interpreter shall answer the complaint within 30 days after the date the complaint is mailed or the allegations in the complaint will be deemed to be true and correct. The answer shall admit, deny or further explain each allegation in the complaint.~~

~~(5)(C)(ii) Unless the program coordinator determines the allegation in the formal complaint to be egregious, the interpreter shall remain on the court interpreter roster until a final decision on discipline has been made.~~

~~(5)(C)(iii) The program coordinator may review records and interview the complainant, the interpreter and witnesses. After considering all factors, the program coordinator may propose a resolution, which the interpreter may stipulate to. The program coordinator may consider aggravating and mitigating circumstances such as the severity of the violation, the repeated nature of violations, the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.~~

~~(5)(C)(iv) When the investigation of the formal complaint is complete, the program coordinator shall notify the interpreter, in writing, of the proposed resolution. Within 15 days of the proposed resolution, the interpreter shall, in writing, either accept the discipline by consent or request a hearing by a panel of the Language Access Committee. If the interpreter fails to respond to the program coordinator's proposed resolution, or fails to request a hearing within 15 days, the interpreter will be deemed to have stipulated to the proposed resolution.~~

~~(6) Hearing by panel.~~

~~(6)(A) The program coordinator shall notify the chair of the Language Access Committee if the interpreter requests a hearing by a panel. The chair of the Language Access Committee shall assign three members of the Committee, including one interpreter, to serve on the panel for the hearing, and shall assign one of the panel members to chair the hearing. The chair of the panel is responsible for sending notice to the interpreter, the complainant and the program coordinator.~~

~~(6)(B) The hearing before the panel is private and closed to the public. The hearing shall be recorded. The hearing is informal and is not governed by the Rules of Civil Procedure and the Rules of Evidence. The interpreter, the complainant, and the program coordinator may attend the hearing. The interpreter and the program coordinator may each bring counsel to the hearing. The chair may limit others in attendance to those persons reasonably necessary to the proceedings. The program coordinator and the interpreter may submit exhibits and call witnesses. Panel members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the panel.~~

~~(6)(C) If any party fails to appear, the panel may proceed on the evidence before it. If the complainant fails to appear, the panel may dismiss the Formal Complaint.~~

~~(6)(D) The panel shall determine by a majority whether there is a preponderance of evidence of the alleged conduct or omission, and whether the alleged conduct or omission violates this rule or the Code of Professional Responsibility. Within 30 days, the panel chair will inform the program coordinator, the interpreter, and the complainant, in writing, of its decision and the findings of fact supporting it. The panel may discipline the interpreter as provided under paragraph (2)(B), including permanently removing the interpreter's credentials.~~

~~(6)(E) The interpreter may appeal the decision to the Language Access Committee by sending a written request to the program coordinator within 15 days of the date of the panel's decision.~~

~~(7) Appeal hearing before the Language Access Committee.~~

~~(7)(A) The committee chair and at least one interpreter member shall attend the hearing before the Language Access Committee. If a committee member is the complainant or the interpreter, the committee member is recused. Members of the panel are also recused. The program coordinator shall mail notice of the date, time and place of the hearing to the interpreter and the complainant. At least 6 days before the hearing, the interpreter and program coordinator may submit briefs and exhibits, which the committee shall review. The information the committee may consider is limited to information presented to the panel. The hearing is closed to the public. Committee members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the Committee. The committee may review records and interview the interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not public.~~

~~(7)(B) The committee shall decide whether the panel abused its discretion in making its decision. If the committee determines the panel abused its discretion, the committee may dismiss the Formal Complaint or discipline the interpreter differently as appropriate. If the committee determines that the panel did not abuse its discretion, the interpreter shall be disciplined according to the panel's decision. The chair of the committee, or the chair's designee, shall issue a written decision and analysis on behalf of the committee within 30 days after the hearing. The program coordinator shall mail a copy of the decision to the interpreter. The committee's decision is final.~~

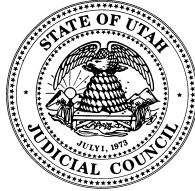
~~(7)(C) The interpreter may review and, upon payment of the required fee, obtain a copy of any records to be used by the committee. The interpreter may attend all of the hearing except the committee's deliberations. The interpreter may be represented by counsel and shall be permitted to make a statement, call and interview the complainant and witnesses, and comment on the claims and evidence. The interpreter may obtain a copy of the record of the hearing upon payment of the required fee.~~

~~(8) If the interpreter is certified in Utah under rule 3-306.03(1), the program coordinator, panel or committee may report any final findings and sanction to other agencies and certification authorities in other jurisdictions.~~

~~*Effective: 5/1/2016*~~

Tab 10





# Administrative Office of the Courts

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

February 16, 2024

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 rules be approved for a 45-day public comment period.

### **CJA 6-304. Grand jury panel**

The proposed amendments change all member terms to 5 years, with no member serving more than 2 consecutive terms. Retiring members would be allowed to finish out a term as an active senior judge.

### **CJA 1-305. Board of Senior Judges**

### **CJA 3-104. Presiding judges**

### **CJA 3-108. Judicial assistance**

### **CJA 3-111. Performance evaluations**

### **CJA 3-113. Senior judges**

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

### **CJA 3-501. Insurance benefits upon retirement**

See the attached memorandum for a detailed explanation of the proposed amendments to Rules 1-305, 3-104, 3-108, 3-111, 3-113, 3-403, and 3-501. Rule 3-104 includes unrelated amendments that were published for comment in December 2023 (lines 227-250, 262-263, and 266-268).

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 6-304. Grand jury panel.****Intent:**

To establish a procedure for appointing district court judges to the statutory panel authorized to convene a grand jury.

To establish the responsibility of the court administrator to provide staff support to the panel.

To establish a procedure for providing public notice of panel hearings.

**Applicability:**

This rule shall apply to the Council, the Administrative Office, the Board of District Court Judges and the statutory panel.

**Statement of the Rule:**

(1) **Appointment.** The presiding officer of the Council shall appoint a panel of five district court judges in accordance with Utah Code Ann. Section 77-10a-2 to hear information which may justify the calling of a grand jury. The presiding officer shall designate one member of the panel to serve as the supervising judge.

**(2) Members.** The panel shall consist of:

(2)(A) one member from the first or second district;

(2)(B) two members from the third district;

(2)(C) one member from the fourth district; and

(2)(D) one member from the fifth, sixth, seventh, or eighth district.

~~(3) **Terms.** Panel members will be appointed to serve five-year terms. No member may serve more than two consecutive terms. Panel judges who retire during their term may continue to serve the remainder of that term as an active senior judge but may not serve a second term. One judge shall be appointed from the first or second district for a five year term, one judge shall be appointed from the third district for a four year term, one judge shall be appointed from the fourth district for a three year term, one judge shall be appointed from the fifth, sixth, seventh or eighth district for a two year term, and one judge shall be appointed from the third district for a one year term. Following the first term all terms on the panel are for five years.~~

~~(4) **Vacancies.** As vacancies occur or terms expire on the panel, the Board shall recommend to the presiding officer of the Council a judge to fill the unexpired portion of the term or to serve a new term.~~

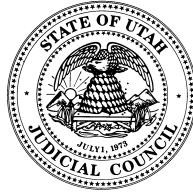
(54) **Secretariat.** The Court Administrator shall designate a staff member to serve as secretariat to the panel and to coordinate scheduling, budget and other administrative activities.

(65) **Schedule.** The Administrative Office, at the direction of the panel, shall annually publish a schedule which provides for a panel hearing in each judicial district every three years.

(76) **Public notice.** Thirty days prior to the hearing, the panel shall give public notice of the hearing.

(87) **Procedures.** The panel shall develop necessary procedures for its operation ~~and shall publish such procedures as an appendix to this~~ in accordance with Utah Code.

*Effective: ~~April 15, 1991~~ May 1, 2024*



# Administrative Office of the Courts

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

19:40

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

## MEMORANDUM

**TO:** Policy, Planning & Technology Committee

**FROM:** Hon. Kate Appleby, Senior Judge  
Neira Siaperas, Deputy State Court Administrator

**RE:** Senior Judge Program and Court Rules

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The Utah Judiciary has a robust senior judge program with a current roster of 32 active senior judges and 23 inactive senior judges. Active senior judges provide case coverage for all court levels and have been instrumental in the efforts to reduce the backlog of cases pending in the district court.

The Code of Judicial Administration directs the work of senior judges, including the required qualifications, authority, terms, performance, compensation, and appointment procedures. The Board of Senior judges and the Administrative Office of the Courts (AOC) have been reviewing the program and court rules relevant to senior judges with the goal of improving the program and support for senior judges, streamlining processes, and clarifying and aligning court rules.

The most substantive proposed changes to court rules and the senior judge program are summarized below. The Management Committee, boards of judges, trial court executives, and senior judges have reviewed proposed revisions and provided input.

### **Court Rules**

#### *UCJA Rule 1-305 Board of Senior Judges*

- ❖ Expanded membership of the Board to include senior justice court judges
- ❖ Revised the term lengths and the required number of meetings of the Board

#### *UCJA Rule 3-104 Presiding Judges*

- ❖ Removed the section on executing the notice of senior judge appointment

#### *UCJA Rule 3-108 Judicial Assistance*

- ❖ Added water law cases to the criteria for transferring or assigning senior judges
- ❖ Clarified and simplified considerations for assigning senior judges

#### *UCJA Rule 3-111 Performance Evaluations*

- ❖ Removed references to senior judges as the processes to evaluate performance of senior judges were incorporated in rule 11-201

#### *UCJA Rule 3-113 Senior Judges*

- ❖ Added a requirement for the AOC to provide a new senior judge orientation
- ❖ Expanded responsibilities of the court executives in providing support for senior judges

#### *UCJA Rule 3-403 Judicial Branch Education*

- ❖ Clarified that “annually” refers to the fiscal rather than the calendar year
- ❖ Revised and simplified education requirements for active and inactive senior judges

#### *UCJA Rule 3-501 Insurance Benefits Upon Retirement*

- ❖ Revised qualifications for incentive benefits

Revisions to two additional court rules will be presented to the Supreme Court:

#### *UCJA Rule 11-201 Senior Judges (Supreme Court rule)*

- ❖ Revised qualifications for appointment and reappointment of senior judges
- ❖ Established qualifications and process for reappointment of senior judges
- ❖ Clarified requirements for an active bar license
- ❖ Incorporated and revised standards of performance and evaluation processes from UCJA Rule 3-111, and created performance improvement procedures
- ❖ Clarified the role of the Judicial Council in the appointment and reappointment of senior judges
- ❖ Revised the terms of office for senior judges and the authority of inactive senior judges

#### *UCJA Rule 11-203 Senior Justice Court Judges (Supreme Court rule)*

- ❖ Aligned the changes with Rule 11-201

### **Senior Judge Program**

The most significant changes to the senior judge program involve increasing the support for senior judges by implementing a new senior judge orientation and expanding local training and support in districts. The new senior judge orientation will include information on judicial assignments, forms, compensation, training, and incentive benefits for senior judges. Local training in districts will include information on district practices, case management systems, and local expectations.

Additional changes to the program include:

- ❖ Revised performance evaluation and surveys of attorneys, presiding judges, and court staff
- ❖ New application for reappointment that will align with the revised rules and require active senior judges to declare whether they volunteered for a minimum of two cases per year
- ❖ New compensation structure for senior judges who participate on court committees and projects
- ❖ Implementation of electronic payment and reimbursement forms

**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 1-305. Board of Senior Judges.****Intent:**

To establish a Board of Senior Judges consisting of ~~senior justices and~~ senior judges of courts of record and senior justice court judges.

To prescribe the composition of the Board's membership, the method of selection of Board members, the members' terms of office, the Board's officers, the procedures to be followed in the event of vacancies, the frequency of Board meetings, and the procedures to be followed in the conduct of Board meetings.

To increase the level of participation of ~~senior justices and~~ senior judges in the development of policy for the judiciary.

To improve communication between the Council and ~~senior justices and~~ senior judges.

**Applicability:**

This rule shall apply to the Board of Senior Judges.

**Statement of the Rule:**

(1) For purposes of this rule, "senior judge" includes active senior justices, active senior judges of courts of record, and active senior justice court judges~~means active senior justice or active senior judge~~.

**(2) Board of senior judges.**

(2)(A) **Establishment.** There is established a Board of Senior Judges.

(2)(B) **Membership.** The Board shall be comprised of ~~five-six~~active senior judges, elected at the annual judicial conference senior judge business meeting, by all senior judges who are in attendance. Contingent upon availability of senior judges, each court level (appellate, juvenile, district, and justice) shall have a minimum of one member of the Board.

(2)(C) **Election.** The senior judges present at the business meeting shall constitute a quorum. Nominations for Board positions may be made by any senior judge. All senior judges present at the meeting shall be entitled to vote for members of the Board.

(2)(D) **Terms.** The terms of the Board members shall be ~~two-year~~three years. A Board member shall not serve more than two consecutive terms and the remainder of a predecessor's term.

(2)(E) **Vacancies.** If a vacancy occurs for any reason on the Board, the Board shall elect a replacement for the unexpired term of the vacancy.

**(3) Board officers.**

(3)(A) **Establishment.** There shall be a chair and vice-chair of the Board. Both the chair and vice chair shall be ~~active~~ senior judges.

(3)(B) **Election.** The chair and vice~~-~~chair shall be elected by the Board members.

(3)(C) **Chair and vice~~-~~chair's term.** The chair and vice-chair shall be elected to serve ~~a one~~two-year terms~~s~~, effective immediately after the annual judicial conference. The year

39 following election, ~~as the vice-chair shall assume the chair position. A new vice-chair~~  
40 ~~shall be appointed each year.~~

41 (3)(D) **Chair and vice-chair's responsibilities.** The chair shall preside over all  
42 meetings of the Board and the annual judicial conference senior judge business  
43 meeting, and shall perform other duties as set forth in this Code and as directed by the  
44 Board. The vice-chair shall serve as chair in the absence of the chair or at the request of  
45 the chair.

46 (3)(E) **Vacancy in office of chair or vice-chair.** ~~In the event that~~If the chair resigns or  
47 leaves the Board for any reason, the vice-chair shall become chair, serving both the  
48 unexpired term of the chair and the full term as chair. ~~In the event that~~If the vice-chair  
49 resigns from the Board for any reason, a new vice-chair shall be elected by the Board  
50 from among its members to serve the unexpired term of the vice-chair and to succeed as  
51 chair as otherwise provided in this rule. Voting and replacement of the vice-chair may  
52 be conducted by e-mail if a replacement is needed before the next annual judicial  
53 conference.

54 (3)(F) **Secretariat services.** The Administrative Office shall serve as secretariat to the  
55 Board.

56 (3)(G) **Board responsibility.** The Board shall exercise such authority and assume such  
57 responsibility as delegated by the Council.

58 **(4) Meetings of the Board.**

59 (4)(A) ~~The Board shall meet a minimum of twice a year and otherwise as determined by~~  
60 ~~the chair. One of the meetings shall be a combined Board and Bench meeting~~  
61 ~~conducted during the annual Judicial Conference. The Board shall meet not less than~~  
62 ~~once a year to transact any and all business that is within its jurisdiction.~~

63 (4)(B) The Board shall rule by majority vote. All Board members have the right to vote.  
64 ~~Three-Four~~ members of the Board constitute a quorum.

65 *Effective: ~~June 28~~May 1, 2024*

**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.

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

100  
101           (3)(B)(i) The presiding judge shall be aware of the vacation and education  
102           schedules of judges and be responsible for an orderly plan of judicial absences  
103           from court duties.

104  
105           (3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence  
106           to the presiding judge consistent with Rule 3-103(4).  
107

108           **(3)(C) Authority to appoint senior judges.** ~~(3)(C)(i)~~ The presiding judge is authorized  
109           to assign a senior judge for judicial assistance consistent with Rule 3-108.  
110

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

113           **(3)(D) Court committees.** The presiding judge shall, where appropriate, make use of  
114           court committees composed of other judges and court personnel to investigate problem  
115           areas, handle court business and report to the presiding judge and/or the court en banc.  
116

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

118  
119           (3)(E)(i) The presiding judge or court executive shall be available to meet with  
120           outside agencies, such as the prosecuting attorney, the city attorney, public  
121           defender, sheriff, police chief, bar association leaders, probation and parole  
122           officers, county governmental officials, civic organizations and other state  
123           agencies. The presiding judge shall be the primary representative of the court.  
124

125           (3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding  
126           judge, the court executive shall represent the court and make statements to the  
127           media on matters pertaining to the total court and provide general information  
128           about the court and the law, and about court procedures, practices and rulings  
129           where ethics permit.  
130

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

132  
133           (3)(F)(i) The presiding judge shall monitor the status of the dockets in the court  
134           and implement improved methods and systems of managing dockets.  
135

136           (3)(F)(ii) The presiding judge shall assign cases and judges in accordance with  
137           supplemental court rules to provide for an equitable distribution of the workload  
138           and the prompt disposition of cases.  
139

140           (3)(F)(iii) Individual judges of the court shall convey needs for assistance to the  
141           presiding judge. The presiding judge shall, through the State Court Administrator,  
142           request assistance of visiting judges or other appropriate resources when  
143           needed to handle the workload of the court.  
144

145           (3)(F)(iv) The presiding judge shall discuss problems of delay with other judges  
146           and offer necessary assistance to expedite the disposition of cases.  
147

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

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

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

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

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

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

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

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

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

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

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

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

(3)(K) **Judicial officers.** In the event that another judge or commissioner of the court 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: if it meets the criteria outlined in rule 3-101.~~

~~(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.~~

(3)(L)(iv) 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 the state level administrator determines that a judge has willfully failed to submit a statement ~~for two consecutive months~~, the state level administrator shall notify the Management Committee.

(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 1, 202~~4~~<sup>3</sup>*

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

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

**Applicability:**

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

**Statement of the Rule:**

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

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

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

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

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

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

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

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

(1)(H) in district court, to handle cases involving taxation, as defined in ~~Rule 6-103(4) of the Utah Code of Judicial Administration~~ and cases involving water, as defined in rule 6-104;

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

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

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

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

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

the district, judges of other districts, and senior judges. The budget should estimate the funds needed for travel by the judges and senior judges.

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

(3)(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in ~~Rule 6-103(4) of the Utah Code of Judicial Administration, and cases involving water, as defined in rule 6-104~~ knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

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

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

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

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

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

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

(3)(C) availability;

(3)(D) expenses and budget.

**(4) Assignment of active judges.**

(4)(A) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding judge of the district in which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in ~~Rule 6-103(4) of the Utah Code of Judicial Administration, and cases involving water, as defined in rule 6-104~~, assignment by the supervising tax judge or the supervising water judge with the approval of the presiding officer of the Council.

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

(4)(C) The presiding officer of the Council may appoint a district or juvenile court presiding judge as the signing judge for automatic expungements and deferred traffic

prosecution orders in all district or juvenile courts within the presiding judge's district with jurisdiction over eligible cases. The length of the assignment may coincide with the judge's term as presiding judge.

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

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

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

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

*Effective: ~~January~~ May 1, 2024*



**Rule 3-111. Performance evaluation of ~~active senior judges and~~ court commissioners.**

**Intent:**

To establish a performance evaluation, including the criteria upon which ~~active senior judges and~~ court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate and ~~to provide to~~ ~~active senior judges and~~ court commissioners information about their performance.

To establish the procedures by which the ~~Judicial~~ Council will evaluate and certify ~~senior judges and~~ court commissioners for reappointment.

**Applicability:**

This rule shall apply to presiding judges, ~~the Board of Justice Court Judges and the Judicial Council, and to the active senior judges and~~ court commissioners ~~of the Court of Appeals, courts of record and courts not of record.~~

**Statement of the Rule:**

**(1) Performance evaluations.**

~~(1)(A) Court commissioners.~~

(1)(A)(i) On forms provided by the Aadministrative Office, the presiding judge of a district ~~or court level~~ of which a court commissioner serves shall complete an evaluation of the court commissioner's performance by ~~June~~July 1 of each year. If a commissioner serves multiple districts or court levels, the presiding judge of each district ~~or court level~~ shall complete an evaluation.

(1)(~~BA~~)(ii) The presiding judge(s) shall survey judges and court personnel seeking feedback for the evaluation. During the evaluation period, the presiding judge(s) shall review at least five of the commissioner's active cases. The review shall include courtroom observation.

(1)(~~CA~~)(iii) The presiding judge(s) shall provide a copy of each commissioner evaluation to the ~~Judicial~~ Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained in the commissioner's personnel file in the Aadministrative Office.

~~(1)(B) Active senior judges. An active senior judge's performance shall be evaluated by attorneys as provided in paragraph (3)(A) and by presiding judges and court staff as provided in paragraph (3)(B).~~

**(2) Evaluation and certification criteria. ~~Active senior judges and~~ Ccourt commissioners shall be evaluated and certified upon the following criteria:**

(2)(A) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(2)(B) attentiveness to factual and legal issues before the court;

(2)(C) adherence to precedent and ability to clearly explain departures from precedent;

(2)(D) grasp of the practical impact on the parties of the commissioner's ~~or senior judge's~~ rulings, including the effect of delay and increased litigation expense;

(2)(E) ability to write clear judicial opinions;

(2)(F) ability to clearly explain the legal basis for judicial opinions;

(2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's ~~or senior judge's~~ court;

(2)(H) maintenance of decorum in the courtroom;

(2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(2)(J) preparation for hearings or oral argument;

(2)(K) avoidance of impropriety or the appearance of impropriety;

(2)(L) display of fairness and impartiality toward all parties;

(2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions;

(2)(N) management of workload;

(2)(O) willingness to share proportionally the workload within the court or district, or regularly accepting assignments;

(2)(P) issuance of opinions and orders without unnecessary delay; and

(2)(Q) ability and willingness to use the court's case management systems in all cases.

### **(3) Standards of performance.**

#### **(3)(A) Survey of attorneys.**

(3)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys appearing before the ~~active senior judge or~~ court commissioner during the period for which the ~~active senior judge or~~ court commissioner is being evaluated. The Council shall measure satisfactory performance based on the results of the final survey conducted during a court commissioner's term of office, subject to the discretion of a court commissioner serving an abbreviated initial term not to participate in a second survey under Section (3)(A)(vi) of this rule.

(3)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

(3)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge. A favorable response is Excellent, More Than Adequate, or Adequate.

(3)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable responses by the total number of all responses, excluding the "No Personal Knowledge" responses. A satisfactory score for a question is achieved when the ratio of favorable responses is 70% or greater.

(3)(A)(ii)(c) A court commissioner's performance is satisfactory if:

(3)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

(3)(A)(ii)(c)(2) the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

~~(3)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.~~

(3)(A)(iii) **Survey respondents.** The Administrative Office ~~of the Courts~~ shall identify as potential respondents all lawyers who have appeared before the court commissioner during the period for which the commissioner is being evaluated.

(3)(A)(iv) **Exclusion from survey respondents.**

(3)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(3)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(3)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. ~~All attorneys who have appeared before the active senior judge shall be sent a survey questionnaire as soon as possible after the hearing.~~

(3)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(3)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the subject's presiding judge(s), and the ~~Judicial~~ Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

~~(3)(B) Non-attorney surveys.~~

~~(3)(B)(i) Surveys of presiding judges and court staff regarding non-appellate senior judges. The Council shall measure performance of active senior judges by a survey of all presiding judges and trial court executives, or in the justice courts, the Justice Court Administrator, of districts in which the senior judge has been assigned. The presiding judge and trial court executive will~~

gather information for the survey from anonymous questionnaires completed by court staff on the calendars to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned. The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

~~(3)(B)(ii) Surveys of Court of Appeals presiding judge and clerk of court.~~ The Council shall measure performance of active appellate senior judges by a survey of the presiding judge and clerk of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the survey from anonymous questionnaires completed by the other judges on each panel to which the appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

**(3)(BC) Case under advisement standard.**

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

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

(3)(BC)(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)(BC)(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 ~~senior judge's or~~ court commissioner's personal electronic queue, inbox, personal possession, or equivalent.

~~(3)(B)(ii)~~ A case is no longer under advisement when the ~~senior judge or~~ court commissioner makes a decision on the issue that is under advisement or on the entire case.

(3)(BC)(iii) The Council shall measure satisfactory performance by the self-declaration of the ~~senior judge or~~ court commissioner or by reviewing the records of the court.

(3)(~~BC~~)(ivii) A ~~senior judge or~~ court commissioner in a trial court demonstrates satisfactory performance by holding:

(3)(~~BC~~)(ivii)(a) no more than three cases per calendar year under advisement more than two months after submission; and

(3)(~~BC~~)(ivii)(b) no case under advisement more than 180 days after submission.

~~(3)(C)(iv) A senior judge in the court of appeals demonstrates satisfactory performance by:~~

~~(3)(C)(iv)(a) circulating no more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year; and~~

~~(3)(C)(iv)(b) achieving a final average time to circulation of a principal opinion of no more than 120 days after submission.~~

(3)(~~CD~~) **Compliance with education standards.** Satisfactory performance is established if the ~~senior judge or~~ court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs. The Council shall measure satisfactory performance by the self-declaration of the ~~senior judge or~~ court commissioner or by reviewing the records of the state court administrator.

(3)(~~DE~~) **Substantial compliance with Code of Judicial Conduct.** Satisfactory performance is established if the response of the ~~senior judge or~~ court commissioner demonstrates substantial compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be complete and correct and if the Council's review of formal and informal sanctions lead the Council to conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. ~~Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.~~

(3)(~~EF~~) **Physical and mental competence.** Satisfactory performance is established if the response of the ~~senior judge or~~ court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(3)(~~EG~~) **Performance and corrective action plans for court commissioners.**

(3)(~~EG~~)(i) The presiding judge of the district a court commissioner serves shall prepare a performance plan for a new court commissioner within 30 days of the court commissioner's appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of each district and court level shall prepare a performance plan. The performance plan shall communicate the expectations set forth in paragraph (2) of this rule.

(3)(~~EG~~)(ii) If a presiding judge issues an overall "Needs Improvement" rating on a court commissioner's annual performance evaluation as provided in paragraph (1), that presiding judge shall prepare a corrective action plan setting forth specific ways in which the court commissioner can improve in deficient areas.

221  
222 **(4) Judicial Council certification process**

223 (4)(A) **July Council meeting.** At its meeting in July, the Council shall begin the process  
224 of determining whether the ~~senior judges and~~ court commissioners whose terms of office  
225 expire that year meet the standards of performance provided for in this rule. The  
226 Administrative Office ~~of the Courts~~ shall assemble all evaluation information, including:

227 (4)(A)(i) survey scores;

228 (4)(A)(ii) judicial education records;

229 (4)(A)(iii) self-declaration forms;

230 (4)(A)(iv) records of formal and informal sanctions;

231 (4)(A)(v) performance evaluations, if the court commissioner ~~or senior judge~~  
232 received an overall rating of Needs Improvement; and

233 (4)(A)(vi) any information requested by the Council.

234  
235 (4)(B) **Records delivery.** Prior to the meeting the Administrative Office ~~of the Courts~~  
236 shall deliver the records to the Council and to the ~~senior judges and~~ court  
237 commissioners being evaluated.

238  
239 (4)(C) **July Council meeting closed session.** In a session closed in compliance with  
240 Rule 2-103, the Council shall consider the evaluation information and make a  
241 preliminary finding of whether a ~~senior judge or~~ court commissioner has met the  
242 performance standards.

243  
244 (4)(D) **Certification presumptions.** If the Council finds the ~~senior judge or~~ court  
245 commissioner has met the performance standards, it is presumed the Council will certify  
246 the ~~senior judge or~~ court commissioner for reappointment. If the Council finds the ~~senior~~  
247 ~~judge or~~ court commissioner did not meet the performance standards, it is presumed the  
248 Council will not certify the ~~senior judge or~~ court commissioner for reappointment. The  
249 Council may certify the ~~senior judge or~~ court commissioner or withhold decision until  
250 after meeting with the ~~senior judge or~~ court commissioner.

251  
252 (4)(E) **Overcoming presumptions.** A presumption against certification may be  
253 overcome by a showing that a ~~senior judge's or~~ court commissioner's failure to comply  
254 with paragraphs (3)(BG) and (3)(CD) were beyond the ~~senior judge's or~~ court  
255 commissioner's personal control. A presumption in favor of certification may be  
256 overcome by:

257 (4)(E)(i) reliable information showing non-compliance with a performance  
258 standard, except as otherwise provided in paragraph (4)(E); or

259 (4)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to  
260 demonstrate lack of substantial compliance with the Code of Judicial Conduct.

261  
262 (4)(F) **August Council meeting.** At the request of the Council the ~~senior judge or~~ court  
263 commissioner challenging a non-certification decision shall meet with the Council in  
264 August. At the request of the Council the presiding judge(S) shall report to the Council  
265 any meetings held with the ~~senior judge or~~ court commissioner, the steps toward self-  
266 improvement identified as a result of those meetings, and the efforts to complete those



steps. Not later than 5 days after the July meeting, the Administrative Office~~of the Courts~~ shall deliver to ~~the senior judge or~~ court commissioner being evaluated notice of the Council's action and any records not already delivered to the ~~senior judge or~~ court commissioner. The notice shall contain an adequate description of the reasons the Council has withheld its decision and the date by which the ~~senior judge or~~ court commissioner is to deliver written materials. The Administrative Office~~of the Courts~~ shall deliver copies of all materials to the Council and to the ~~senior judge or~~ court commissioner prior to the August meeting.

(4)(G) **August Council meeting closed session.** At its August meeting in a session closed in accordance with ~~r~~Rule 2-103, the Council shall provide to the ~~senior judge or~~ court commissioner adequate time to present evidence and arguments in favor of certification. Any member of the Council may present evidence and arguments of which the ~~senior judge or~~ court commissioner has had notice opposed to certification. The burden is on the person arguing against the presumed certification. The Council may determine the order of presentation.

(4)(H) **Final certification decision.** At its August meeting in open session, the Council shall approve its final findings and certification regarding all ~~senior judges and~~ court commissioners whose terms of office expire that year.

(4)(I) **Communication of certification decision.** The ~~Judicial~~ Council shall communicate its certification decision to the ~~senior judge or~~ court commissioner and to the presiding judge(s) of the district(s) the commissioner serves. ~~The Judicial Council shall communicate its certification decision for senior judges to the Supreme Court and for court commissioners to the presiding judge of the district the commissioner serves.~~

Effective: ~~November~~ May 1, 20240

**Rule 3-113. Senior judges.****Intent:**

To establish the responsibility to provide ~~for~~ support services for active senior judges.

To provide for the compensation of active senior judges.

**Applicability:**

This rule shall apply to judicial employees and to ~~senior judges and~~ active senior judges of courts of record.

**Statement of the Rule:****(1) Support services.**

(1)(A) Orientation. The Administrative Office shall provide a new senior judge orientation within three months of the appointment as active senior judge. The orientation shall include information on judicial assignments, forms, compensation, available training, and reappointment processes.

(1)(BA) Services. The court executive of the court in which an active senior judge is serving shall make available services as would normally be needed in the performance of a judge's official duties.

(1)(CB) Notice of appointment – assignment. The court executive of the court in which an active senior judge is serving shall execute the necessary notice of appointment for the case or matters to which the judge has been assigned. The order of assignment shall include the district the judge will serve, the court location, the assignment for which service is needed, and the signature and date of the presiding judge or the presiding judge's designee. The order shall be sent to the state court administrator or designee.

(1)(DC) Assistance. The court executive of the district in which an active senior judge serves shall provide the following assistance as needed:

(1)(D)(i) administrative services;

(1)(D)(ii) orientation on case management system, district processes, and equipment; ~~mail services~~;

(1)(D)(iii) access to electronic files, ~~and~~ court documents, and a computer;

(1)(D)(iv) travel arrangements; and

(1)(D)(v) preparation of reimbursement vouchers.

**(2) Compensation.** Active senior judges shall be compensated at the rate and for the services and duties as set forth herein.

(2)(A) Compensation for the performance of judicial duties related to the assignment of cases, service on a grand jury panel, service on court committees, service on court projects, rules and policies, or the mentoring of a new judge shall be at an hourly rate equal to the hourly rate of a ~~district trial court~~ judge, and shall be paid in half-day increments.

(2)(B) Compensation for all other duties, such as attendance at Board meetings, ~~committee meetings~~, and educational functions required by ~~this Code~~ court rules shall be



paid at the rate of \$50.00 per half day (1-4 hours) and \$100.00 per full day (over 4 hours).

(2)(C) For travel required in the performance of judicial duties related to assigned cases or calendars, senior judges shall be compensated for travel time in excess of one and one-half hours round trip at the hourly rate of a district trial court judge, and for expenses, e.g., per diem, mileage, and lodging, at the rates allowed for state employees. Active senior judges are required, as court employees, to complete the Defensive Driver Training every two years.

(2)(D) For travel required in the performance of judicial duties not related to an assigned case, senior judges shall be compensated:

(2)(D)(i) for round-trip travel time as follows:

(2)(D)(i)(a) 0 - 1.5 hours: No payment

(2)(D)(ii)(b) 1.5 - 5.5 hours: \$25.00

(2)(D)(iii)(c) More than 5.5 hours: \$50.00

(2)(D)(ii) ~~and~~ for expenses, e.g., per diem, mileage, and lodging, at the rates allowed for state employees.

(2)(E) Because senior judges do not have access to state vehicles, mileage shall be paid at the higher rate ~~for state employees~~ according to the state travel policy.

(2)(~~FE~~) Except for the incentive benefit in r~~R~~ule 3-501, compensation shall not include any form of benefits, i.e., state retirement contributions, medical or life insurance premiums, etc.

Effective: ~~June 28~~ May 1, 20241

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

To establish the Judicial Branch Education Committee's ("Committee") responsibility to develop and evaluate a comprehensive education program for all judicial officers and court staff.

To establish education standards for 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 judicial officers and court staff, except seasonal employees and law clerks.

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

(1)(A) **Judicial branch education committee.** The 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 judicial officers.**

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

(3)(A)(i) All 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 judicial officers shall complete 30 hours of pre-approved education ~~annually~~each fiscal year, 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.

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 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)(~~ae~~) he or she has attended 30 hours of approved judicial education within one year before the application; or

(3)(A)(ii~~ai~~)(~~bd~~) 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 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 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, 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: onboarding for new employees as well as 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.

(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 training on harassment and abusive conduct prevention; ethics; inclusion and elimination of bias.

**(5) Reporting.**

(5)(A) 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 1, 2024*

**Rule 3-501. Insurance Benefits Upon Retirement.****Intent:**

To establish uniform policies regarding sick leave for justices, judges, active senior judges of courts of record, and court commissioners and conversion of sick leave to paid up medical, dental and life insurance at the time of retirement.

**Applicability:**

This rule shall apply to all justices, judges, active senior judges of courts of record, and court commissioners of courts of record.

**Statement of the Rule:****(1) Earned benefits.**

(1)(A) For each year of full-time employment that a justice, judge, or court commissioner uses less than four days of sick leave in a calendar year, the judge, justice, or court commissioner will be eligible for and accumulate eight months of paid up medical insurance, dental insurance, prescription drug insurance and life insurance benefits at the time of retirement. Upon retirement, the submission of an annual application and a showing that the judge, justice, or court commissioner is not otherwise covered by a comparable medical insurance policy, the judge, justice, or court commissioner shall be eligible for and receive the insurance benefits which have accrued.

(1)(B) Maternity leave and parental leave is considered sick leave for determining benefits under this rule.

(1)(C) Medical and dental insurance coverage provided will be the same as that carried by the justice, judge, or court commissioner at retirement, i.e., family, two party, single.

**(2) Automatic benefits.** Notwithstanding the provisions of paragraph (1), a justice, judge, or court commissioner who retires and who is eligible for retirement benefits at the time of retirement shall receive a maximum of five years medical insurance, dental insurance, prescription drug insurance and life insurance.

**(3) Duration of benefits.**

(3)(A) The duration of benefits shall be calculated from the effective date of the justice's, judge's or court commissioner's retirement. Earned benefits shall not exceed seven years. Automatic benefits shall not exceed five years. Earned benefits and automatic benefits shall not exceed seven years.

(3)(B) Earned benefits and automatic benefits shall terminate when the justice, judge, or commissioner is eligible for Medicare, except that prescription drug insurance and supplemental Medicare insurance shall continue for the balance of the term of earned or automatic benefits.

(3)(C) If the spouse of the justice, judge, or court commissioner qualifies for medical insurance, prescription drug insurance or dental insurance under subsection (1)(C), such insurance shall continue for the period of earned or automatic benefits or until the spouse becomes eligible for Medicare, whichever is earlier, except that prescription drug insurance and supplemental Medicare insurance for the spouse shall continue for the balance of the term of earned or automatic benefits.

(3)(D) Earned or automatic benefits for dependents, other than a spouse, of the justice, judge, or court commissioner terminate when the justice, judge, or court commissioner reaches age 65.

(4) **Sick leave.** As authorized by Utah Code Section 78A-2-107(9), the state court administrator or designee will develop methods for recording sick leave use by justices, judges, and court commissioners and for recording sick leave conversion to paid up medical, dental and life insurance benefits.

**(5) Active senior judge incentive benefit.**

(5)(A) The judiciary will pay 50% of the cost of medical and dental insurance premiums for a qualifying active senior judge and spouse until the qualifying active senior judge is age 65. The judiciary will pay 50% of the cost of supplemental Medicare insurance and prescription drugs for a qualifying active senior judge and spouse if the active senior judge is age 65 or older.

(5)(B) To qualify for the incentive benefit the active senior judge must:

(5)(B)(i) qualify as an active senior judge pursuant to ~~r~~Rule 11-201;

(5)(B)(ii) have exhausted the earned and automatic benefits provided for by this rule;

(5)(B)(iii) submit to the state court administrator or their designee ~~on or before July 1 of each year~~ a letter expressing an intent to participate in the incentive benefit program;

(5)(B)(iv) ~~perform case work, subject to being called~~ comply with qualifications for reappointment as outlined in rule 11-201 during the active senior judge's term of appointment; and

(5)(B)(v) show good cause to the ~~Judicial~~ Council why the active senior judge should not be disqualified for the incentive benefit if the active senior judge ~~has turned down case assignments and~~ has not performed case work for two or more fiscal years.

(5)(C) The State Retirement Office shall deduct from the active senior judge's retirement benefit the portion of the cost payable by the active senior judge.

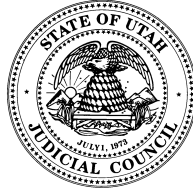
(6) **Inactive status.** If an active senior judge who receives the incentive benefit changes to inactive status, the senior judge shall notify the state court administrator or designee in writing that the active senior judge has converted to inactive status and is receiving the incentive benefit. The state court administrator or designee shall notify Human Resources and URS of the change in status.

(7) This policy will be implemented subject to availability of funds.

Effective: ~~May 1 June 28, 2024~~

Tab 11





# Administrative Office of the Courts

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

February 5, 2024

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

## MEMORANDUM

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

**FROM:** Sonia Sweeney, Juvenile Court Administrator  
Blake Murdoch, Deputy Juvenile Court Administrator

**RE:** Proposed Drug Testing Policy for Review and Approval

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The Board of Juvenile Court Judges has proposed a revision of the following policy which is now advanced to the Management Committee for review and consideration. Additionally, we are seeking placement on the Judicial Council's consent agenda for February 26, 2024.

### ***Drug Testing Policy***

*This policy was last updated on September 26, 2007. The policy provides direction to juvenile probation officers regarding the administration of drug testing of youth who are under the jurisdiction of the Juvenile Court. The proposed policy seeks to adopt feedback and suggestions shared by the Board of Juvenile Court Judges, Juvenile Trial Court Executives, Probation Chiefs and others regarding the use of trauma informed practices. It would require that drug testing be unobserved unless observed testing is specifically ordered by a Judge. The policy directs that probation officers shall consider self reported gender identity and known indicators of trauma that could be triggered by observed drug testing. The revised policy also removes a provision allowing for the assessment of a \$25 fee for all drug tests found to be positive for illicit substances. It further specifies that if a responsible adult is not available and the youth is determined to be impaired, alternatives such as the Youth Services Center, respite care, and crisis intervention centers may be considered. If approved, the Juvenile Court is seeking an effective date of May 1, 2024, to allow time for proper training and implementation.*

We will be available to respond to questions during your meeting on February 13, 2024.

Thank you.

## Drug Testing

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### Policy:

This policy provides direction to probation staff regarding drug testing to assist with assessing individual treatment needs and ensuring accountability for minors under the jurisdiction of the juvenile court.

### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

### Authority:

- [UCA 34A-5-102\(1\)\(o\)](#)

### References:

- [Collecting Specimens LMS](#)
- [General Counsel Opinion, April 5, 2016, Releasing Minors Who Test Positive](#)
- [Direct Observation Probation Policy Memorandum](#)

### Procedure:

1. The probation staff shall complete the approved Collecting Specimens Training (LMS) prior to conducting any drug tests. The training shall be repeated at a frequency determined by Education Department standards.
2. The probation staff shall ensure that random drug testing is conducted on minors who have been ordered to do so by the court. Urinalysis drug testing by the probation department shall be conducted unobserved unless observed testing is specifically ordered by a judge.
3. Prior to making a recommendation for observed drug testing, Probation shall consider self-reported gender identity and known indicators of trauma that could be triggered by observed drug testing, such as previous sexual abuse.
4. The probation staff shall inform the minor and their parent/guardian/custodian of the general procedures and rules of drug testing and request that the youth and parent sign the [Drug Testing Acknowledgement form \(Addendum 4.9.1\)](#). The probation staff shall eFile the Acknowledgement form.
5. The probation staff shall complete the [Positive Drug Test Statement form \(Addendum 4.9.2\)](#) when the results of a drug test are positive.
  - 5.1. The right to request a confirmation test is waived when the minor accepts the results of the test and signs the [Positive Drug Test Statement](#) form.
  - 5.2. A confirmation test should be requested if the minor does not agree with the results of the test.

- 5.2.1. The probation officer shall follow the approved chain of custody protocol for specimens sent for confirmation testing as outlined by local district practice.
6. The probation staff shall notify the minor's parent/guardian/custodian of a positive drug test result and release the minor to the parent/guardian/custodian or other responsible adult.
  - 6.1. If a parent/guardian/custodian or responsible adult is not available and it is determined by probation staff that the minor is not currently impaired, the minor may be released on their own. The determination that the minor is not impaired may only be made by probation staff who has completed the approved drug testing training as determined by Education Department standards.
  - 6.2. If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.
7. The probation officer shall consult the [Non-Compliant Behavior Response Matrix \(Addendum 4.15.2\)](#) to determine a response to a positive drug test.

[Addendum 4.9.1 Drug Testing Acknowledgment](#)

[Addendum 4.9.2 Drug Test Statement](#)

[Addendum 4.15.2 Non-Compliant Behavior Response Matrix](#)

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History:

Effective September 26, 2007

Drug & Alcohol Committee June 5, 2018

Update by Policy Group August 29, 2019

Legal Review September 13, 2019

Approved to be opened for comment by BJCJ November 8, 2019

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DRAFT FOR APPROVAL

## **DRUG TESTING ACKNOWLEDGMENT**

1. Cooperate with probation staff and answer all questions honestly.
2. As a condition of the Court's order you are subject to random testing for alcohol and drug usage.
3. Failure or refusal to submit to such testing or tampering with a sample is considered the same as a "positive test" and may result in further court action. Failure to provide a sample within 60 minutes of the request may also result in further court action.
4. Sample collections will be observed by trained probation staff, when so ordered.
5. Any positive result may be subject to additional sanctions. If you test positive, you will be requested to sign a Positive Drug Test Statement.
6. You are required to inform probation staff prior to the test about any prescribed or over the counter medications you are taking. You may be required to provide verification from a physician. If you test positive for a medication that has not been specifically prescribed to you, the test will be considered positive for unauthorized use.
7. You may challenge a positive test result at the time you are tested and request a confirmation test.
8. The test results will be released to you, your parent/guardian/custodian, and to the Court. Release to any other parties will be available only by Court order.
9. You will be released to a parent/guardian/custodian or responsible adult if you test positive, except as provided below.
10. You may be released on your own if a parent/guardian/custodian or responsible adult is not available, and it is determined by probation staff that you are not presently impaired.
11. If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.

### **ACKNOWLEDGMENT**

I, the undersigned, have read or have had read to me the above information and understand these instructions. I understand that the Juvenile Court will be informed if I fail to cooperate or provide false, incomplete, or misleading information it may result in further court action.

**Date:** \_\_\_\_\_

**Minor:** \_\_\_\_\_ **Probation Officer:** \_\_\_\_\_

**Parent/Guardian:** \_\_\_\_\_ **Parent/Guardian:** \_\_\_\_\_

Updated: November 17, 2023

## POSITIVE DRUG TEST STATEMENT

Minor:	
Case Number:	
Assigned PO:	
Collected by:	
Date:	

I understand that I have tested positive for the following drug(s):

☐ THC      ☐ Methamphetamine      ☐ Cocaine      ☐ Opiates  
☐ Alcohol      ☐ Amphetamine      ☐ Other \_\_\_\_\_

I also understand that I have the right to have these results confirmed by laboratory testing.

<input type="checkbox"/>	I accept the results of the above test(s) and admit to using said drug(s). By doing so, I also waive my right to request a confirmation test.
<input type="checkbox"/>	I do not accept the results of the above test(s) and request a confirmation test be performed.

Minor \_\_\_\_\_ Date \_\_\_\_\_

Probation Officer \_\_\_\_\_ Date \_\_\_\_\_

Parent/Guardian \_\_\_\_\_ Date \_\_\_\_\_

☐ Notification of the positive test for drugs or alcohol was given to the parent/guardian on \_\_\_\_\_

**Admission Statement:**

[illegible]

# Non-Compliant Behavior Matrix

**Step 1:** Determine the seriousness of the current non-compliant behavior: Minor; Medium; Serious.

Minor: (Lapse in judgment)	Medium: (Multiple minor violations with no response to consequences)	Serious: (Ongoing, willful disregard of expectations)
<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Curfew violation (PO notified by parents)</li> <li>• Failed to attend school/work</li> <li>• Failed to complete community service/restitution/fines</li> <li>• Failed to comply with PO directives</li> <li>• Failed to contact PO</li> <li>• Failed to enroll in treatment/program</li> <li>• Failed to notify PO about police contact</li> <li>• Missed appointment with treatment/program</li> <li>• Use of illegal substances (parent/guardian report)</li> </ul>	<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Curfew/home restriction/truancy violation</li> <li>• Fail to contact PO</li> <li>• Fail to notify PO about police contact</li> <li>• Failure to attend school/work</li> <li>• Failure to complete community service/restitution</li> <li>• Failure to comply with PO directives</li> <li>• Failure to return home overnight</li> <li>• Missed appointments with required program/treatment/skill provider</li> <li>• Non-compliant with program (suspension)</li> <li>• Positive UA/failure to submit</li> <li>• Physical violence/aggressive behavior (no injury)</li> </ul>	<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Contact with victim</li> <li>• Curfew/home restriction/habitual truancy</li> <li>• Fail to contact PO</li> <li>• Fail to notify PO about police contact</li> <li>• Failure to complete community service/restitution</li> <li>• Failure to return home overnight/ AWOL</li> <li>• Multiple missed appointments with required program/ treatment/skill provider</li> <li>• Non-compliant with program/ intervention</li> <li>• Positive UA/failure to submit/ adulteration to sample</li> <li>• Physical violence/aggressive behavior (injury)</li> <li>• Physical violence/aggressive behavior (no injury)</li> <li>• Unsuccessful discharge from program/intervention for lack of attendance/participation/behavior</li> </ul>

**Step 2:** Using the youth's risk level (determined from PSRA) and the seriousness of the non-compliant behavior determined in step 1, use the table below to determine the presumptive response (Level 1, 2, or 3). In determining whether or not to decrease/increase the presumptive response, the following factors should be considered: impact on victim; impact on the community; and if the violation is consistent with the youth's pattern of behavior.

	Low	Moderate	High
Minor	1	1	2
Medium	1	2	3
Serious	2	3	3

# Non-Compliant Behavior Matrix

(continued)

**STEP 3:** Use the information from Steps 1 and 2 to determine the appropriate level of response. Use the least restrictive response for the desired behavioral change utilizing the principles of risk, need, and responsivity. Responses to violations by low risk youth are preferably handled through school and/or parent consequences, and should involve minimal contact with the juvenile system. If there is an increase in restrictions, such as in drug testing, case contacts, community service hours, or other restrictions, the increase should be the least restrictive, in amount or duration, to achieve the desired outcome. The determined response should be applied promptly.

Level 1 Response	Level 2 Response	Level 3 Response
<ul style="list-style-type: none"> <li>Carey Guides/BITS/Decisional Balance Sheet</li> <li>Curfew or home restriction(s)</li> <li>Service in the community</li> <li>Increase contact/Motivational Interview</li> <li>Increased frequency of drug testing (as needed)</li> <li>Letter/essay/homework assignment</li> <li>Letter of apology</li> <li>Problem-solving session</li> <li>Role play with PO</li> <li>Restriction of activities/privileges</li> <li>Review case plan</li> <li>School monitoring sheets</li> <li>School/parent/guardian consequences</li> <li>Verbal or written warning</li> </ul>	<ul style="list-style-type: none"> <li>Any Level 1 responses that are appropriate</li> <li>Community service/fines*</li> <li>Develop behavioral plan with school</li> <li>Home restriction/day reporting</li> <li>In-court review hearing</li> <li>Increase frequency of treatment</li> <li>Increase of special programming such as ART/NCTI</li> <li>No contact directive*</li> <li>Staff with others</li> <li>Work crew for completion of hours/structure</li> </ul>	<ul style="list-style-type: none"> <li>Any Level 1 or Level 2 responses that are appropriate</li> <li>Intensive outpatient or inpatient treatment*</li> <li>Multi agency staffing/community based placement*</li> <li>Order to Show Cause/Contempt *</li> <li>Re-assess risk/needs and create new case plan</li> <li>Specialty Court*</li> </ul>

\* Indicates response that may require court action

**STEP 4:** Document the non-compliant behavior and identified response in CARE and court reports. If needed, complete a re-assessment and incorporate needed changes in the case plan.



# Drug Testing

## Policy:

~~Drug testing shall be administered to detect and deter substance abuse, assess individual treatment needs, and ensure accountability for minors under the continuing jurisdiction of the juvenile court.~~ This policy provides direction to probation staff regarding drug testing to assist with assessing individual treatment needs and ensuring accountability for minors under the jurisdiction of the juvenile court.

## Scope:

This policy applies to all probation ~~officers~~ department staff of the Utah State Juvenile Court.

## Authority:

- ~~Utah State Juvenile Court: Drug Testing Policies and Procedures~~
- [UCA 34A-5-102\(1\)\(o\)](#)

## References:

- [Collecting Specimens LMS](#)
- [General Counsel Opinion, April 5, 2016, Releasing Minors Who Test Positive](#)
- [Direct Observation Probation Policy Memorandum](#)

## Procedure:

- The probation staff shall complete the approved Collecting Specimens Training (LMS) prior to conducting any drug tests. The training shall be repeated at a frequency determined by Education Department standards.
- ~~Minors under the continuing jurisdiction of the Juvenile Court who have a Court order or case plan authorizing drug testing shall submit to random urinalysis testing.~~
  - ~~Such minors will receive a drug test to establish a baseline to determine any measurable illicit substances in their system.~~
  - ~~A minor who tests positive for drug use is not allowed to leave the test facility unless released to a parent, guardian or other responsible adult. If a release to a responsible adult is not possible, the probation officer may seek other alternatives, such as detention and youth service programs.~~
- The probation staff shall ensure that random drug testing is conducted on minors who have been ordered to do so by the court. Urinalysis drug testing by the probation department shall be conducted unobserved unless observed testing is specifically ordered by a judge.
- ~~Probation may require the minor and parent(s) / guardian(s) to sign a drug testing acknowledgement form that advises them the testing MUST be witnessed and explains what will occur if the minor tampers with a urine specimen or tests positive for illicit drugs (Addendum 4.9.1).~~
- ~~The first random drug test following the baseline test that is positive for illicit substances may result in a verbal warning or other sanctions.~~

- ~~3.1. The minor may be required to submit to a substance abuse evaluation and follow the recommendation of the evaluator.~~
- ~~3.2. All drug tests following the baseline found to be positive for illicit substances may initiate a motion to the Court requesting the assessment of a fee of \$25.00 per panel screen regardless of how many drugs test positive.~~
- ~~4. Each positive drug test requires completion of the Positive Drug Test Statement form and notification to the parent or guardian of the minor (Addendum 4.9.2, Positive Drug Test Statement).~~
  - ~~4.1. If the minor signs the form indicating they accept the results of the test, they waive their right to request a confirmation test.~~
  - ~~4.2. If the minor signs the form indicating they do not accept the results of the test, it will be considered a request for a confirmation test to be performed.~~
    - ~~4.2.1 The minor will be responsible for the cost of the confirmation test if it confirms the minor is positive.~~
3. Prior to making a recommendation for observed drug testing, Probation shall consider self reported gender identity and known indicators of trauma that could be triggered by observed drug testing, such as previous sexual abuse.
4. The probation staff shall inform the minor and their parent/guardian/ custodian of the general procedures and rules of drug testing and request that the youth and parent sign the [Drug Testing Acknowledgement form\(Addendum 4.9.1\)](#). The probation staff shall eFile the Acknowledgement form.
5. The probation staff shall complete the [Positive Drug Test Statement form \(Addendum 4.9.2\)](#) when the results of a drug test are positive.
  - 5.1. The right to request a confirmation test is waived when the minor accepts the results of the test and signs the [Positive Drug Test Statement](#) form.
  - 5.2. A confirmation test should be requested if the minor does not agree with the results of the test.
    - 5.2.1. The probation officer shall follow the approved chain of custody protocol for specimens sent for confirmation testing as outlined by local district practice.
6. The probation staff shall notify the minor's parent/guardian/custodian of a positive drug test result and release the minor to the parent/guardian/custodian or other responsible adult.
  - 6.1. If a parent/guardian/custodian or responsible adult is not available and it is determined by probation staff that the minor is not currently impaired, the minor may be released on their own. The determination that the minor is not impaired may only be made by probation staff who has completed the approved drug testing training as determined by Education Department standards.
  - 6.2. If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.
7. The probation officer shall consult the [Non-Compliant Behavior Response Matrix](#) to determine a response to a positive drug test.
- ~~5. The probation department may submit a Motion and Order for Drug Testing Fee (Addendum 4.9.3, Motion and Order for Drug Testing Fee).~~

- 5.1. ~~The probation department may recommend the Court order the minor to pay \$25.00 per panel screen regardless of how many drugs test positive in addition to the cost of confirmation.~~
- 5.2. ~~The Positive Drug Test Statement shall be attached to the Motion and Order for Drug Testing Fee.~~

[Addendum 4.9.1 Drug Testing Acknowledgment](#)

[Addendum 4.9.2 Drug Test Statement](#)

[Addendum 4.15.2 Non-Compliant Behavior Response Matrix](#)

[Addendum 4.9.3 Report and Recommendation for Drug Testing Fee/Restitution](#)

**Addendum 4.9.1 Drug Testing Acknowledgment**

- [Utah State Juvenile Court: Drug Testing Acknowledgment \(Approved 2007\)](#)

**Addendum 4.9.2 Drug Test Statement**

- [Utah State Juvenile Court: Drug Test Statement \(Approved 2007\)](#)

**Addendum 4.9.3 Motion & Order for Drug Testing Fee**

- [Utah State Juvenile Court: Motion & Order Report and Recommendation for Drug Testing Fee \(Approved 2007\)](#)
- [Collecting Specimens LMS](#)

## **DRUG TESTING ACKNOWLEDGMENT**

1. Cooperate with ~~the~~ probation ~~officer~~ **staff** and answer all questions honestly.
2. As a condition of the Court's order you are subject to random ~~urine~~ testing for alcohol and drug usage ~~at such times as you are requested to submit to these by a probation officer.~~
3. ~~You are advised that Failure or refusal to submit to such testing or tampering with a urine specimen will be considered a violation of the court order and is~~ **sample is** considered the same as a "positive test" **and may result in further court action.** Failure to provide a ~~urine specimen~~ **sample** within 60 minutes of the request ~~will be considered a violation of the Court order~~ **may also result in further court action.** ~~All specimen collections MUST be witnessed.~~
4. **Sample collections will be observed by trained probation staff, when so ordered.**
5. Any positive result ~~is a violation of the Court's order. It will be reported to the Court and may result in further sanctions.~~ **may be subject to additional sanctions.** If you test positive, you will be requested to sign a Positive Drug Test Statement.
6. You are required to inform ~~your probation officer~~ **probation staff** prior to the test about any prescribed or over the counter medications you are taking. You may be required to provide verification from a physician. If you test positive for a medication that has not been specifically prescribed to you, the test will be considered a ~~"a violation of probation":~~ **positive for unauthorized use.**
7. You may challenge a positive test result at the time you are tested and request a confirmation test. ~~If the confirmation test is positive, this test will be at your own expense. The confirmation test may be at your own expense if it is determined to be positive.~~
8. The test results will be released to you, ~~your parents or guardian~~ your parent/guardian/custodian, and to the Court. Release to any other parties will be available only by Court order.
9. ~~If any test is positive the minor must be released to a parent, guardian or responsible adult.~~ **You will be released to a parent/guardian/custodian or responsible adult if you test positive, except as provided below.**
10. **You may be released on your own if a parent/guardian/custodian or responsible adult is not available, and it is determined by probation staff that you are not presently impaired.**
11. **If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.**

### **ACKNOWLEDGMENT**

I, the undersigned, have read or **have** had read to me the above information and understand these instructions. I understand that ~~the Juvenile Court will be informed~~ if I fail to cooperate or provide false, incomplete, or misleading information **it may result in further court action.**

Date: \_\_\_\_\_

Minor: \_\_\_\_\_ Probation Officer: \_\_\_\_\_

Parent/Guardian: \_\_\_\_\_ Parent/Guardian: \_\_\_\_\_

### Addendum 4.9.2

## POSITIVE DRUG TEST STATEMENT

Minor : \_\_\_\_\_

Case Number: \_\_\_\_\_

Probation Officer: \_\_\_\_\_

Date: \_\_\_\_\_

<b>Minor:</b>	
<b>Case Number:</b>	
<b>Assigned PO:</b>	
<b>Collected by:</b>	
<b>Date:</b>	

I understand that I have tested positive for the following drug(s):

- ☐ THC      ☐ Methamphetamine      ☐ Cocaine      ☐ Opiates  
☐ Alcohol      ☐ Amphetamine      ☐ Other

~~I also understand that I have the right to have these results confirmed by laboratory testing for a fee for each test performed. Failure to request a confirmation test at this time will, in fact, establish that the results from the original test(s) are valid.~~ **I also understand that I have the right to have these results confirmed by laboratory testing.**

<input type="checkbox"/>	I accept the results of the above test(s) and admit to using said drug(s). By doing so, I also waive my right to request a confirmation test.
<input type="checkbox"/>	I do <del>NOT</del> <b>not</b> accept the results of the above test(s) and request a confirmation test be performed. <del>I will be responsible for the cost of such test if it is positive.</del>

Minor \_\_\_\_\_ Date \_\_\_\_\_

Probation Officer \_\_\_\_\_ Date \_\_\_\_\_

Parent/Guardian \_\_\_\_\_ Date \_\_\_\_\_

☐ Notification of the positive test for drugs or alcohol was given to the parent/guardian on \_\_\_\_\_  
Date

Admission Statement:

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## **Drug Testing Proposed Update for Policy**

### **1. Comment/Theme:**

- ❖ Any legal/policy updates in the works regarding drug testing for non-judicial youth? I know we aren't there yet, but we have so many youth now on NJ agreements who are repeat clients with significant drug concerns, and they could benefit from drug testing both as a tool to be used for incentives/behavior change, and for rewards/consequences...
  - Policy Committee Response: There needs to be a court order for drug testing. NJ youth may enroll in treatment where the program drug tests the youth.
  - Policy Committee Decision: The policy will not include drug testing for NJ's.

### **2. Comment/Theme:**

- ❖ Feel free to make fun of me for my minor suggestions, which are: 1) in paragraph 2 there is no need to capitalize the words "court" or "judge", and 2) in paragraph 3 the word "probation" does not need to be capitalized.
  - Policy Committee Response: Thank you for your input. The corrections were made.
  - Policy Committee Decision: This has been corrected.

### **3. Comment/Theme:**

- ❖ 3.2 "Consider known gender identity" There could be some confusion with the word "known". That could be interpreted as the gender assigned at birth to some. I would suggest that this be changed to "self-reported gender identity of the youth".
  - Policy Committee Response: This is a good suggestion for clarification.
  - Policy Committee Decision: The update was made.

### **4. Comment/Theme:**

- ❖ **3.1 ad 4: May need some clarification. Is this saying that the Acknowledgement form should be signed by the youth before an order for observed drug testing is made? Is 4. for post-disposition for any drug testing?**
  - **Policy Committee Response: 3.1 does make it confusing as to when to review the Drug Testing Acknowledgement form with the youth. Section 4 is for post-disposition for any drug testing. The policy will be updated for clarification.**
  - **Policy Committee Decision: We have removed 3.1.**

**5. Comment/Theme:**

- ❖ **I'm giving feedback on a previous piece of feedback I read on the Comment Form regarding NJ drug testing. I tend to disagree that NJ youth should be required to participate in drug tests with probation. Many treatment programs offer and provide drug testing as part of their requirements. If a youth has significant drug concerns, getting them involved in a program that you know offers drug tests may be more appropriate.**
  - **Policy Committee Response: Thank you for this feedback.**
  - **Policy Committee Decision: N/A**

**6. Comment/Theme:**

- ❖ **I strongly support the urinalysis drug testing being conducted unobserved unless otherwise ordered by a Judge. If we are conducting it unobserved are there certain precautions that should be taken, such as having the youth empty their pockets, show their waistband, etc... will there be any changes to the procedure? Should we clarify if a PO of the same or different sex are able to conduct the drug test if it is unobserved? Are there any limitations to sending an unobserved test to the lab if the youth doesn't accept the results?**
  - **Policy Committee Response: This will be addressed in training. There will be a document outlining the procedures. Once this policy is approved the document will be updated and available for probation officers.**
  - **Policy Committee Decision: N/A**

## **7. Comment/Theme:**

- ❖ **On the Acknowledgement Form #7. Will there still be the option to request that they pay for a confirmation test or does that wording need to be removed?**
  - **Policy Committee Response: We are moving towards removing paying for drug testing. This wording was missed on the addendums.**
  - **Policy Committee Decision: The wording for payment for a positive confirmation test has been removed from both the acknowledgement form and the positive drug testing statement.**



# Drug Testing

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## Policy:

This policy provides direction to probation staff regarding drug testing to assist with assessing individual treatment needs and ensuring accountability for minors under the jurisdiction of the juvenile court.

## Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

## Authority:

- [UCA 34A-5-102\(1\)\(o\)](#)

## References:

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[Addendum 4.9.1 Drug Testing Acknowledgment](#)

[Addendum 4.9.2 Drug Test Statement](#)

[Addendum 4.15.2 Non-Compliant Behavior Response Matrix](#)

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DRAFT FOR APPROVAL

## **DRUG TESTING ACKNOWLEDGMENT**

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3. Failure or refusal to submit to such testing or tampering with a sample is considered the same as a "positive test" and may result in further court action. Failure to provide a sample within 60 minutes of the request may also result in further court action.
4. Sample collections will be observed by trained probation staff, when so ordered.
5. Any positive result may be subject to additional sanctions. If you test positive, you will be requested to sign a Positive Drug Test Statement.
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7. You may challenge a positive test result at the time you are tested and request a confirmation test.
8. The test results will be released to you, your parent/guardian/custodian, and to the Court. Release to any other parties will be available only by Court order.
9. You will be released to a parent/guardian/custodian or responsible adult if you test positive, except as provided below.
10. You may be released on your own if a parent/guardian/custodian or responsible adult is not available, and it is determined by probation staff that you are not presently impaired.
11. If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.

### **ACKNOWLEDGMENT**

I, the undersigned, have read or have had read to me the above information and understand these instructions. I understand that the Juvenile Court will be informed if I fail to cooperate or provide false, incomplete, or misleading information it may result in further court action.

**Date:** \_\_\_\_\_

**Minor:** \_\_\_\_\_ **Probation Officer:** \_\_\_\_\_

**Parent/Guardian:** \_\_\_\_\_ **Parent/Guardian:** \_\_\_\_\_

Updated: November 17, 2023

## POSITIVE DRUG TEST STATEMENT

Minor:	
Case Number:	
Assigned PO:	
Collected by:	
Date:	

I understand that I have tested positive for the following drug(s):

☐ THC      ☐ Methamphetamine      ☐ Cocaine      ☐ Opiates  
☐ Alcohol      ☐ Amphetamine      ☐ Other \_\_\_\_\_

I also understand that I have the right to have these results confirmed by laboratory testing.

<input type="checkbox"/>	I accept the results of the above test(s) and admit to using said drug(s). By doing so, I also waive my right to request a confirmation test.
<input type="checkbox"/>	I do not accept the results of the above test(s) and request a confirmation test be performed.

Minor \_\_\_\_\_ Date \_\_\_\_\_

Probation Officer \_\_\_\_\_ Date \_\_\_\_\_

Parent/Guardian \_\_\_\_\_ Date \_\_\_\_\_

☐ Notification of the positive test for drugs or alcohol was given to the parent/guardian on \_\_\_\_\_

**Admission Statement:**

[illegible]

# Non-Compliant Behavior Matrix

**Step 1:** Determine the seriousness of the current non-compliant behavior: Minor; Medium; Serious.

Minor: (Lapse in judgment)	Medium: (Multiple minor violations with no response to consequences)	Serious: (Ongoing, willful disregard of expectations)
<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Curfew violation (PO notified by parents)</li> <li>• Failed to attend school/work</li> <li>• Failed to complete community service/restitution/fines</li> <li>• Failed to comply with PO directives</li> <li>• Failed to contact PO</li> <li>• Failed to enroll in treatment/program</li> <li>• Failed to notify PO about police contact</li> <li>• Missed appointment with treatment/program</li> <li>• Use of illegal substances (parent/guardian report)</li> </ul>	<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Curfew/home restriction/truancy violation</li> <li>• Fail to contact PO</li> <li>• Fail to notify PO about police contact</li> <li>• Failure to attend school/work</li> <li>• Failure to complete community service/restitution</li> <li>• Failure to comply with PO directives</li> <li>• Failure to return home overnight</li> <li>• Missed appointments with required program/treatment/skill provider</li> <li>• Non-compliant with program (suspension)</li> <li>• Positive UA/failure to submit</li> <li>• Physical violence/aggressive behavior (no injury)</li> </ul>	<ul style="list-style-type: none"> <li>• Association with individuals who engage in problematic behavior</li> <li>• Contact with victim</li> <li>• Curfew/home restriction/habitual truancy</li> <li>• Fail to contact PO</li> <li>• Fail to notify PO about police contact</li> <li>• Failure to complete community service/restitution</li> <li>• Failure to return home overnight/ AWOL</li> <li>• Multiple missed appointments with required program/ treatment/skill provider</li> <li>• Non-compliant with program/ intervention</li> <li>• Positive UA/failure to submit/ adulteration to sample</li> <li>• Physical violence/aggressive behavior (injury)</li> <li>• Physical violence/aggressive behavior (no injury)</li> <li>• Unsuccessful discharge from program/intervention for lack of attendance/participation/behavior</li> </ul>

**Step 2:** Using the youth's risk level (determined from PSRA) and the seriousness of the non-compliant behavior determined in step 1, use the table below to determine the presumptive response (Level 1, 2, or 3). In determining whether or not to decrease/increase the presumptive response, the following factors should be considered: impact on victim; impact on the community; and if the violation is consistent with the youth's pattern of behavior.

	Low	Moderate	High
Minor	1	1	2
Medium	1	2	3
Serious	2	3	3

# Non-Compliant Behavior Matrix

(continued)

**STEP 3:** Use the information from Steps 1 and 2 to determine the appropriate level of response. Use the least restrictive response for the desired behavioral change utilizing the principles of risk, need, and responsivity. Responses to violations by low risk youth are preferably handled through school and/or parent consequences, and should involve minimal contact with the juvenile system. If there is an increase in restrictions, such as in drug testing, case contacts, community service hours, or other restrictions, the increase should be the least restrictive, in amount or duration, to achieve the desired outcome. The determined response should be applied promptly.

Level 1 Response	Level 2 Response	Level 3 Response
<ul style="list-style-type: none"> <li>Carey Guides/BITS/Decisional Balance Sheet</li> <li>Curfew or home restriction(s)</li> <li>Service in the community</li> <li>Increase contact/Motivational Interview</li> <li>Increased frequency of drug testing (as needed)</li> <li>Letter/essay/homework assignment</li> <li>Letter of apology</li> <li>Problem-solving session</li> <li>Role play with PO</li> <li>Restriction of activities/privileges</li> <li>Review case plan</li> <li>School monitoring sheets</li> <li>School/parent/guardian consequences</li> <li>Verbal or written warning</li> </ul>	<ul style="list-style-type: none"> <li>Any Level 1 responses that are appropriate</li> <li>Community service/fines*</li> <li>Develop behavioral plan with school</li> <li>Home restriction/day reporting</li> <li>In-court review hearing</li> <li>Increase frequency of treatment</li> <li>Increase of special programming such as ART/NCTI</li> <li>No contact directive*</li> <li>Staff with others</li> <li>Work crew for completion of hours/structure</li> </ul>	<ul style="list-style-type: none"> <li>Any Level 1 or Level 2 responses that are appropriate</li> <li>Intensive outpatient or inpatient treatment*</li> <li>Multi agency staffing/community based placement*</li> <li>Order to Show Cause/Contempt *</li> <li>Re-assess risk/needs and create new case plan</li> <li>Specialty Court*</li> </ul>

\* Indicates response that may require court action

**STEP 4:** Document the non-compliant behavior and identified response in CARE and court reports. If needed, complete a re-assessment and incorporate needed changes in the case plan.

## Drug Testing

### Policy:

~~Drug testing shall be administered to detect and deter substance abuse, assess individual treatment needs, and ensure accountability for minors under the continuing jurisdiction of the juvenile court.~~ This policy provides direction to probation staff regarding drug testing to assist with assessing individual treatment needs and ensuring accountability for minors under the jurisdiction of the juvenile court.

### Scope:

This policy applies to all probation ~~officers~~ department staff of the Utah State Juvenile Court.

### Authority:

- ~~Utah State Juvenile Court: Drug Testing Policies and Procedures~~
- [UCA 34A-5-102\(1\)\(o\)](#)

### References:

- [Collecting Specimens LMS](#)
- [General Counsel Opinion, April 5, 2016, Releasing Minors Who Test Positive](#)
- [Direct Observation Probation Policy Memorandum](#)

### Procedure:

1. The probation staff shall complete the approved Collecting Specimens Training (LMS) prior to conducting any drug tests. The training shall be repeated at a frequency determined by Education Department standards.
- ~~1. Minors under the continuing jurisdiction of the Juvenile Court who have a Court order or case plan authorizing drug testing shall submit to random urinalysis testing.~~
  - ~~1.1. Such minors will receive a drug test to establish a baseline to determine any measurable illicit substances in their system.~~
  - ~~1.2. A minor who tests positive for drug use is not allowed to leave the test facility unless released to a parent, guardian or other responsible adult. If a release to a responsible adult is not possible, the probation officer may seek other alternatives, such as detention and youth service programs.~~
2. The probation staff shall ensure that random drug testing is conducted on minors who have been ordered to do so by the court. Urinalysis drug testing by the probation department shall be conducted unobserved unless observed testing is specifically ordered by a judge.
- ~~2. Probation may require the minor and parent(s) / guardian(s) to sign a drug testing acknowledgement form that advises them the testing MUST be witnessed and explains what will occur if the minor tampers with a urine specimen or tests positive for illicit drugs (Addendum 4.9.1).~~
- ~~3. The first random drug test following the baseline test that is positive for illicit substances may result in a verbal warning or other sanctions.~~



- ~~3.1. The minor may be required to submit to a substance abuse evaluation and follow the recommendation of the evaluator.~~
- ~~3.2. All drug tests following the baseline found to be positive for illicit substances may initiate a motion to the Court requesting the assessment of a fee of \$25.00 per panel screen regardless of how many drugs test positive.~~
- ~~4. Each positive drug test requires completion of the Positive Drug Test Statement form and notification to the parent or guardian of the minor (Addendum 4.9.2, Positive Drug Test Statement).~~
  - ~~4.1. If the minor signs the form indicating they accept the results of the test, they waive their right to request a confirmation test.~~
  - ~~4.2. If the minor signs the form indicating they do not accept the results of the test, it will be considered a request for a confirmation test to be performed.~~
    - ~~4.2.1 The minor will be responsible for the cost of the confirmation test if it confirms the minor is positive.~~
3. Prior to making a recommendation for observed drug testing, Probation shall consider self reported gender identity and known indicators of trauma that could be triggered by observed drug testing, such as previous sexual abuse.
4. The probation staff shall inform the minor and their parent/guardian/ custodian of the general procedures and rules of drug testing and request that the youth and parent sign the [Drug Testing Acknowledgement form\(Addendum 4.9.1\)](#). The probation staff shall eFile the Acknowledgement form.
5. The probation staff shall complete the [Positive Drug Test Statement form \(Addendum 4.9.2\)](#) when the results of a drug test are positive.
  - 5.1. The right to request a confirmation test is waived when the minor accepts the results of the test and signs the [Positive Drug Test Statement](#) form.
  - 5.2. A confirmation test should be requested if the minor does not agree with the results of the test.
    - 5.2.1. The probation officer shall follow the approved chain of custody protocol for specimens sent for confirmation testing as outlined by local district practice.
6. The probation staff shall notify the minor's parent/guardian/custodian of a positive drug test result and release the minor to the parent/guardian/custodian or other responsible adult.
  - 6.1. If a parent/guardian/custodian or responsible adult is not available and it is determined by probation staff that the minor is not currently impaired, the minor may be released on their own. The determination that the minor is not impaired may only be made by probation staff who has completed the approved drug testing training as determined by Education Department standards.
  - 6.2. If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.
7. The probation officer shall consult the [Non-Compliant Behavior Response Matrix](#) to determine a response to a positive drug test.
- ~~5. The probation department may submit a Motion and Order for Drug Testing Fee (Addendum 4.9.3, Motion and Order for Drug Testing Fee).~~

- 5.1. The probation department may recommend the Court order the minor to pay \$25.00 per panel screen regardless of how many drugs test positive in addition to the cost of confirmation.
- 5.2. The Positive Drug Test Statement shall be attached to the Motion and Order for Drug Testing Fee.

[Addendum 4.9.1 Drug Testing Acknowledgment](#)

[Addendum 4.9.2 Drug Test Statement](#)

[Addendum 4.15.2 Non-Compliant Behavior Response Matrix](#)

[Addendum 4.9.3 Report and Recommendation for Drug Testing Fee/Restitution](#)

**Addendum 4.9.1 Drug Testing Acknowledgment**

- [Utah State Juvenile Court: Drug Testing Acknowledgment \(Approved 2007\)](#)

**Addendum 4.9.2 Drug Test Statement**

- [Utah State Juvenile Court: Drug Test Statement \(Approved 2007\)](#)

**Addendum 4.9.3 Motion & Order for Drug Testing Fee**

- [Utah State Juvenile Court: Motion & Order Report and Recommendation for Drug Testing Fee \(Approved 2007\)](#)
- [Collecting Specimens LMS](#)

## **DRUG TESTING ACKNOWLEDGMENT**

1. Cooperate with ~~the~~ probation ~~officer~~ **staff** and answer all questions honestly.
2. As a condition of the Court's order you are subject to random ~~urine~~ testing for alcohol and drug usage ~~at such times as you are requested to submit to these by a probation officer.~~
3. ~~You are advised that~~ Failure or refusal to submit to such testing or tampering with a ~~urine specimen will be considered a violation of the court order and is~~ **sample is** considered the same as a "positive test" **and may result in further court action.** Failure to provide a ~~urine specimen~~ **sample** within 60 minutes of the request ~~will be considered a violation of the Court order~~ **may also result in further court action.** ~~All specimen collections MUST be witnessed.~~
4. **Sample collections will be observed by trained probation staff, when so ordered.**
5. Any positive result ~~is a violation of the Court's order. It will be reported to the Court and may result in further sanctions.~~ **may be subject to additional sanctions.** If you test positive, you will be requested to sign a Positive Drug Test Statement.
6. You are required to inform ~~your probation officer~~ **probation staff** prior to the test about any prescribed or over the counter medications you are taking. You may be required to provide verification from a physician. If you test positive for a medication that has not been specifically prescribed to you, the test will be considered a ~~"a violation of probation":~~ **positive for unauthorized use.**
7. You may challenge a positive test result at the time you are tested and request a confirmation test. ~~If the confirmation test is positive, this test will be at your own expense. The confirmation test may be at your own expense if it is determined to be positive.~~
8. The test results will be released to you, ~~your parents or guardian~~ your parent/guardian/custodian, and to the Court. Release to any other parties will be available only by Court order.
9. ~~If any test is positive the minor must be released to a parent, guardian or responsible adult.~~ **You will be released to a parent/guardian/custodian or responsible adult if you test positive, except as provided below.**
10. **You may be released on your own if a parent/guardian/custodian or responsible adult is not available, and it is determined by probation staff that you are not presently impaired.**
11. **If a parent/guardian/custodian or responsible adult is not available and the minor is determined to be impaired, alternatives such as Youth Services Center, Respite Care, and Crisis Intervention Centers should be considered.**

### **ACKNOWLEDGMENT**

I, the undersigned, have read or **have** had read to me the above information and understand these instructions. I understand that ~~the Juvenile Court will be informed~~ if I fail to cooperate or provide false, incomplete, or misleading information **it may result in further court action.**

Date: \_\_\_\_\_

Minor: \_\_\_\_\_ Probation Officer: \_\_\_\_\_

Parent/Guardian: \_\_\_\_\_ Parent/Guardian: \_\_\_\_\_

### Addendum 4.9.2

## POSITIVE DRUG TEST STATEMENT

Minor : \_\_\_\_\_

Case Number: \_\_\_\_\_

Probation Officer: \_\_\_\_\_

Date: \_\_\_\_\_

<b>Minor:</b>	
<b>Case Number:</b>	
<b>Assigned PO:</b>	
<b>Collected by:</b>	
<b>Date:</b>	

I understand that I have tested positive for the following drug(s):

- ☐ THC      ☐ Methamphetamine      ☐ Cocaine      ☐ Opiates  
☐ Alcohol      ☐ Amphetamine      ☐ Other

~~I also understand that I have the right to have these results confirmed by laboratory testing for a fee for each test performed. Failure to request a confirmation test at this time will, in fact, establish that the results from the original test(s) are valid.~~ **I also understand that I have the right to have these results confirmed by laboratory testing.**

<input type="checkbox"/>	I accept the results of the above test(s) and admit to using said drug(s). By doing so, I also waive my right to request a confirmation test.
<input type="checkbox"/>	I do <del>NOT</del> <b>not</b> accept the results of the above test(s) and request a confirmation test be performed. <del>I will be responsible for the cost of such test if it is positive.</del>

Minor \_\_\_\_\_ Date \_\_\_\_\_

Probation Officer \_\_\_\_\_ Date \_\_\_\_\_

Parent/Guardian \_\_\_\_\_ Date \_\_\_\_\_

☐ Notification of the positive test for drugs or alcohol was given to the parent/guardian on \_\_\_\_\_  
Date

Admission Statement:

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## **Drug Testing Proposed Update for Policy**

### **1. Comment/Theme:**

- ❖ Any legal/policy updates in the works regarding drug testing for non-judicial youth? I know we aren't there yet, but we have so many youth now on NJ agreements who are repeat clients with significant drug concerns, and they could benefit from drug testing both as a tool to be used for incentives/behavior change, and for rewards/consequences...
  - Policy Committee Response: There needs to be a court order for drug testing. NJ youth may enroll in treatment where the program drug tests the youth.
  - Policy Committee Decision: The policy will not include drug testing for NJ's.

### **2. Comment/Theme:**

- ❖ Feel free to make fun of me for my minor suggestions, which are: 1) in paragraph 2 there is no need to capitalize the words "court" or "judge", and 2) in paragraph 3 the word "probation" does not need to be capitalized.
  - Policy Committee Response: Thank you for your input. The corrections were made.
  - Policy Committee Decision: This has been corrected.

### **3. Comment/Theme:**

- ❖ 3.2 "Consider known gender identity" There could be some confusion with the word "known". That could be interpreted as the gender assigned at birth to some. I would suggest that this be changed to "self-reported gender identity of the youth".
  - Policy Committee Response: This is a good suggestion for clarification.
  - Policy Committee Decision: The update was made.

### **4. Comment/Theme:**

- ❖ **3.1 ad 4: May need some clarification. Is this saying that the Acknowledgement form should be signed by the youth before an order for observed drug testing is made? Is 4. for post-disposition for any drug testing?**
  - **Policy Committee Response: 3.1 does make it confusing as to when to review the Drug Testing Acknowledgement form with the youth. Section 4 is for post-disposition for any drug testing. The policy will be updated for clarification.**
  - **Policy Committee Decision: We have removed 3.1.**

#### **5. Comment/Theme:**

- ❖ **I'm giving feedback on a previous piece of feedback I read on the Comment Form regarding NJ drug testing. I tend to disagree that NJ youth should be required to participate in drug tests with probation. Many treatment programs offer and provide drug testing as part of their requirements. If a youth has significant drug concerns, getting them involved in a program that you know offers drug tests may be more appropriate.**
  - **Policy Committee Response: Thank you for this feedback.**
  - **Policy Committee Decision: N/A**

#### **6. Comment/Theme:**

- ❖ **I strongly support the urinalysis drug testing being conducted unobserved unless otherwise ordered by a Judge. If we are conducting it unobserved are there certain precautions that should be taken, such as having the youth empty their pockets, show their waistband, etc... will there be any changes to the procedure? Should we clarify if a PO of the same or different sex are able to conduct the drug test if it is unobserved? Are there any limitations to sending an unobserved test to the lab if the youth doesn't accept the results?**
  - **Policy Committee Response: This will be addressed in training. There will be a document outlining the procedures. Once this policy is approved the document will be updated and available for probation officers.**
  - **Policy Committee Decision: N/A**

## **7. Comment/Theme:**

- ❖ **On the Acknowledgement Form #7. Will there still be the option to request that they pay for a confirmation test or does that wording need to be removed?**
  - **Policy Committee Response: We are moving towards removing paying for drug testing. This wording was missed on the addendums.**
  - **Policy Committee Decision: The wording for payment for a positive confirmation test has been removed from both the acknowledgement form and the positive drug testing statement.**