

**JUDICIAL COUNCIL MEETING
Minutes**

March 14, 2024

**Meeting held through Webex
and in person**

**Hyatt Place
Meeting Place Room
1819 S 120 E
St. George, UT**

12:00 p.m. – 4:10 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Keith Barnes
Hon. Brian Brower
Hon. Jon Carpenter
Hon. Samuel Chiara
Hon. Michael DiReda
Hon. Ryan Evershed
Hon. Paul Farr
Hon. James Gardner
Hon. Elizabeth Lindsley
Hon. Thomas Low
Judge Amber Mettler
Justice Paige Petersen
Margaret Plane, esq.

AOC Staff:

Ron Gordon
Neira Siaperas
Shane Bahr
Jim Peters
Nick Stiles
Sonia Sweeney
Hilary Wood

Excused:

Hon. Suchada Bazzelle

Presenters:

Judge Kate Appleby
Brody Arishita
Erik Christiansen
Michael Drechsel
Travis Erickson
Judge Michele Christiansen Forster
Alisha Johnson
Dr. Don Judges
Judge Keith Kelly
Jordan Murray
Heather Marshall

Russ Pearson
Tucker Samuelson
Cade Stubbs
Karl Sweeney
Cara Tangaro
Shonna Thomas
Judge John Walton
Keisa Williams
Elizabeth Wright

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

Chief Justice Matthew Durrant welcomed everyone to the meeting, and asked if there were any questions or comments on the previous month's minutes. There were none.

Motion: Judge Elizabeth Lindsley made a motion to approve the February 26, 2024 meeting minutes. Judge Keith Barnes seconded, and the motion passed unanimously.

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

Chief Justice Durrant thanked Ron Gordon, Neira Siaperas and Michael Drechsel for all of their work with the legislature this session. He indicated that meetings with Senate President Adams and Speaker of the House Schultz went well and commented that he was especially encouraged by Speaker Schultz and how welcoming and eager he was to help the Judiciary.

3. FIFTH DISTRICT REPORT: (Judge John Walton, Cade Stubbs)

Judge John Walton and Cade Stubbs gave an update on the 5th District. Judge Walton expressed appreciation for the additional senior judge funding they received, particularly as they anticipate needing substantial coverage for Judge McIff-Allen's case load once her federal appointment is official.

Mr. Stubbs discussed the growth in the 5th district, noting some of its cities and counties are among the fastest growing in the state of Utah. In Iron County alone, the caseloads have increased 6% from 2022 to 2023, which is about 24 cases per judge.

4. UTAH STATE BAR REPORT: (Elizabeth Wright, Erik Christiansen, Cara Tangaro)

Erik Christiansen, current president of the Utah State Bar, introduced Elizabeth Wright, executive director, and Cara Tangaro, who will take his place as Bar president in three months. Mr. Christiansen talked about the spring Bar convention, which was completely sold out. The Bar also gave away scholarships this year for some government attorneys and young lawyers who might have some difficulty being able to attend these kinds of events for financial reasons. The summer Bar convention will be virtual again this year, but they are also looking to hold some kind of additional in-person conference in the off years.

Last year, the Bar implemented two mental health services - Tava Health and Unmind. Tava Health has been a really popular service, and the costs have become higher than what was budgeted. Unmind hasn't been quite as popular, so the Bar probably won't renew the contract when it expires.

Mr. Christiansen explained that the Bar voted to oppose two pieces of legislation this past session. One of the bills allows a litigant to request a different judge on their case. The other bill eliminated the Bar's participation in the Commission on Criminal and Juvenile Justice (CCJJ).

Lastly, Mr. Christiansen talked about the effort to reorganize the Utah Bar under DOPL at the end of the legislative session last year, which the Bar was not in favor of. As a compromise, the Bar is being audited through the Supreme Court using the resources of the legislative auditor's office. That audit has been going on for the first part of this year, and Mr. Christiansen anticipates the first draft will come out sometime in April 2024.

Chief Justice Durrant expressed appreciation for the opportunity to work closely with the Bar leadership and looks forward to working with Ms. Tangaro in the future.

Mr. Gordon thanked Mr. Christiansen and the Bar for introducing the mental health resources Tava Health and Unmind at the Bar convention last year. Based on that presentation, the judiciary pursued the same mental health wellness resources for all court employees.

5. BOARD OF APPELLATE COURT JUDGES: (Judge Michelle Christiansen Forster, Nick Stiles)

Judge Michelle Christensen Forster provided the following updates from the Board of Appellate Court Judges:

- The Court of Appeals received a new appellate mediator and, as of December 2023, the appellate mediation office had successfully mediated 102 cases. She added that these mediations have been very helpful in reducing the workload for the Court of Appeals judges.
- The Pilot Pro Bono project received grant funding to help with administrative costs for that program. There are four CLEs for the program, including: Appellate Practice 101, Brief Writing, Oral Argument, and Utilizing the Appellate Mediation Office to Resolve Cases. There is also a full list of volunteer attorneys who have agreed to take the case if one comes up, as well as a growing list of mentors.
- IT has completed the development of the e-filing platform and the application is in the final phases of testing. All front office staff have been trained on how to handle cases that come through the new system and are currently processing appeals. As of last week, the revisions to the applicable court rules have come back from public comment and they will now go before the Supreme Court at the end of March 2024. If approved, they will be effective May 1, 2024.
- There has been discussion about in-person versus remote hearings, and both appellate courts continue to allow parties to determine how they will appear.
- The Board has been working with the JPEC to implement a pilot project whereby District and Juvenile Court judges are able to evaluate the opinions of the Court of Appeals judges.
- The appellate courts oversee the statewide transcription process, which includes transcripts for cases on appeal and for cases in trial courts. In 2023, the Appellate Courts oversaw the process of over 5,000 transcript requests.

- Lastly, the Court of Appeals has been working closely with the Standing Committee on Appellate Representation concerning the appellate rosters, which consist of the attorneys that can be appointed in these cases. The attorneys must participate in training and mentorship, and be experienced in filing appeals to qualify for the roster.

Chief Justice Durrant thanked Judge Christiansen Forster for her report.

6. STATE COURT ADMINISTRATOR: (Ron Gordon)

Mr. Gordon gave some information on the Home Court Pilot bill that was passed by the legislature. This pilot is intended for individuals with mental illness, who because of mental illness are unlikely to survive or to be safe without the assistance of public services. The pilot is only taking place in Salt Lake County, which will receive some funds from the legislature for the services needed to implement the pilot. As part of this pilot, the 3rd District Court received an additional judge. The Home Court calendar will most likely not be assigned to the new judge, but will be assigned by the presiding judge to one of the District Court judges who has had experience with the issues that are likely to come up in that court.

Mr. Gordon discussed the bill that significantly changed the membership of CCJJ and the Sentencing Commission. The judiciary has historically had multiple representatives on both of those commissions, but going forward will only have one voting member, the state court administrator, on each committee. The judiciary has the opportunity to also appoint some non-voting members, whereas before the judiciary had three judges on CCJJ and five judges on the Sentencing Commission. This still allows the judiciary to be represented and for the non-voting members to voice the opinions of the judiciary.

Mr. Gordon gave a review of some of the budget actions. The request for court interpreters was fully funded between ongoing and one-time funds. The Council's request for judges and commissioners was funded through one 4th District juvenile judge and one 3rd District judge. The Guardian ad Litem attorney request was also approved.

The judiciary also received funding for a 5% salary increase for judges and commissioners. For judges, this 5% increase will be automatic. The Judicial Council will need to approve the increase for court commissioners.

The request for essential software funding was approved in one-time funds. In the coming months, Mr. Gordon and Ms. Siaperas will be talking about strategies in the Budget & Fiscal Management Committee for how to fund these software needs internally going forward.

The judiciary received \$1.6M in one-time funding for senior judges and case backlog processing, which should last through the remainder of FY 2024 and through FY 2025.

The judiciary also received funding in the amount of \$1.65M for pay for performance increases. Every employee will receive a 3% COLA. The additional salary increases will be recommended by managers based on employee's performance and will be funded from the \$1.65M appropriated by the legislature.

The judiciary did not receive funding for a virtual jury selection staff, a training coordinator, at-will conversion, or a law library assistant.

Lastly, Mr. Gordon mentioned the judiciary did get funding for the American Fork courthouse rent increase, and Senator Owens championed the request for a second courtroom in Manti on behalf of his constituents.

7. 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:

Some of the work of the committee will be discussed later in the meeting. There is one ongoing project that is left over from the legislative session, which is the rule on the manner of appearance. Justice Paige Petersen commented that the sponsor of the bill has been very reasonable and has given the judiciary an opportunity to improve the bill. The Supreme Court created a group who is meeting about this rule, headed by Justice Pohlman, with different bench levels represented in the group.

Policy, Planning, and Technology Committee Report:

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

Bar Commission Report:

The Bar Commission report was given earlier in the meeting.

8. BUDGETS AND GRANTS: (Karl Sweeney, Alisha Johnson,)

Alisha Johnson presented the information on the budgets and grants.

FY 2024 Ongoing Turnover Savings



FY 2024 Ongoing Turnover Savings as of 02/29/2024

#	Funding Type	Actual	Forecasted
		Amount YTD	Amount @ YE
	Internal Savings	(54,820.52)	(54,820.52)
	Internal Savings	635,504.16	635,504.16
1	Internal Savings	-	200,000.00
	TOTAL SAVINGS	580,683.64	780,683.64
2		(88,635.29)	(200,000.00)
	TOTAL USES	(88,635.29)	(200,000.00)
3	Total Actual/Forecasted Turnover Savings for FY 2024	492,048.35	580,683.64

Prior Report Totals (as of 02/07/2024, with the contingent amount removed)

492,017.51

614,347.68

FY 2024 One-Time Turnover Savings



FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 02/16/2024 (1,320 out of 2,080 hours)

#	Description	Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 02/16/2024)	Internal Savings	928,549.76
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 02/16/2024)	Reimbursements	583,335.99
3	Est. One Time Savings for 760 remaining pay hours (\$1,000 / pay hour)	Internal Savings (Est.)	760,000.00
Total Potential One Time Savings			2,271,885.75
Prior Report Totals (as of PPE 1/19/2024)			\$ 2,366,344.83

FY 24 Forecasted Available One-time Funds

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
Sources of YE 2024 Funds			
*	Turnover Savings as of PPE 02/16/2024 (including anticipated ARPA reimbursement)	Turnover Savings	1,511,886
**	Turnover savings Estimate for the rest of the year (\$1,000 x 760 pay hours)	Turnover Savings	760,000
Total Potential One Time Turnover Savings			2,271,886
Less: Legislative Cut to Budget Savings			(600,000)
(a)	Total Potential One Time Turnover Savings Less LFA Recommendations		1,671,886
Operational Savings From TCE / AOC Budgets - Forecasted			
	Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	635,244
	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)	Total Operational Savings and Reserve		688,241
(c)	Total of Turnover Savings & Operational Savings = (a) + (b)		2,360,126
Legislative Supplemental Funding:			
	American Fork Lease Increases (originally a carryforward request for FY 2024)	Legislative Contingent	389,000
(d)	Subtotal - Legislative Supplemental Funding		389,000
	Potential Use of Credit Card Charge Fund (CCCF)		TBD
Uses of YE 2024 Funds			
(e)	Carryforward into FY 2025 (Anticipate request to Legislature for \$3,200,000)	Pre-Covid Carryforward	(2,500,000)
Total Potential One Time Savings = (c) + (d) less Carryforward (e)			249,126
Less: Judicial Council Requests Previously Approved			(587,450)
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests			(338,324)

Updated 03/04/2024

Performance Raises Request

Ms. Johnson explained that this request has been withdrawn since the legislature has approved funding for pay for performance increases, so this is no longer needed.

Motion: Judge Lindsley made a motion to approve the withdrawal of the pay for performance funding request. Judge James Gardner seconded the motion, and the motion passed unanimously.

Personnel Funding Request

The judiciary did not receive enough funding for new judges for the 3rd District and 4th District Juvenile. Ms. Johnson explained that the judiciary needs \$366,950 more than what the legislature allocated for these budget items.

Motion: Judge Lindsley made a motion to approve the funding request of \$366,950 as presented. Judge David Mortensen seconded the motion, and the motion passed unanimously.

Grants

Jordan Murray presented a request concerning the National Center for State Courts eviction diversion initiative grant. Earlier this year, Nathanael Player and Mr. Murray informed the Council that the intended sub-recipient of these funds, a nonprofit, was suddenly and unexpectedly ceasing operations. Mr. Player immediately went to work to identify if there was a new suitable nonprofit partner that they could work with to meet the objectives of the grant. They did find a possible partnership with Utah Legal Services (ULS), and the revised application is in the material packet for the Council. He added that there has been no material changes to the scope of work, he has just replaced the name of the nonprofit.

Motion: Judge Mortensen made a motion to authorize the nonprofit partner as presented. Justice Petersen seconded the motion, and the motion passed unanimously.

Phase II System Review

Mr. Gordon explained that this request is a carry-over from last month when the Council discussed moving forward with Phase II of the System Review. The request is for the \$55,000 needed to fund this second phase.

Motion: Judge Thomas Low made a motion to approve the funding request for Phase II of the System Review. Judge Brian Brower seconded, and the motion passed unanimously.

Court Charge Card Fund

The courts have accepted credit cards for many years. There is a fee associated with credit cards that the court then has to pay. In the past when interest rates were high, the AOC has been able to pay the credit card fees with interest from the interest-bearing account. In years when the interest rates were low, the AOC has had to deposit money into that account to cover the credit card fees. Now that interest rates are very high, \$1.4M of interest has accumulated in this account. The change to the accounting manual as voted on by the Budget and Fiscal Management Committee was to be able to use some of these funds, if needed, for other funding needs in the courts.

Judge Lindsley commented that if the interest balance is left in the account there may be a significant amount of money available that could be used for essential needs, such as IT software. Because of the implications through the entire budget, the Budget and Fiscal Management Committee wanted the full Council to know the reasoning behind the change to the accounting manual.

9. WINGS COMMITTEE REPORT: (Judge Keith Kelly, Shonna Thomas)

The Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) committee is a problem-solving body that relies on court-community partnerships to:

- Oversee guardianship practice in the courts;
- Improve the handling of guardianship cases;
- Engage in outreach/education; and
- Enhance the quality of care and quality of life of vulnerable adults.

Shonna Thomas highlighted some things WINGS has been working on over the past year:

- WINGS did a lot of work on CJA rules 6-501 and 6-507. The revised rules were ultimately approved last year, which was a really big win for the committee.
- The Forms Committee asked WINGS for assistance in updating the numerous forms that relate to guardianship, many of which have not been updated in over a decade. WINGS created a Forms Work Group to provide the preliminary revisions before going to the Forms Committee for approval. This work group consists of both court staff and individuals from outside the court.
- The Guardian Signature Program provides volunteer attorneys in guardianship cases, but has not come close to meeting the needs of the community. WINGS is looking into a pilot program where attorneys could go through a training program, participate in a mentorship, gain CLE credits, and then receive a flat rate for working a guardianship case. The Attorney Gap Subcommittee has been tasked with putting together a proposal to outline what the pilot program would look like and what kind of funding it would require.

Judge Keith Kelly asked the Council for guidance on a succession process for the committee chair, who is to be a Utah District Court Judge under UCJA 3-421 (3), and the rotation of its members. Judge Kelly has been the chair for five and a half years and suggested that it may make sense to have the Council appoint a new District Court judge to take over.

Judge Lindsley recommended staggering the committee membership so that there isn't a complete turnover all at one time. Judge Low added that appointing a vice chair with institutional knowledge would be beneficial.

Motion: Judge Low made a motion to have the Management Committee consider whether the rule allows for a vice chair on the WINGS committee to be appointed or if there needs to be a formal rule change to accommodate this action. Justice Petersen seconded the motion, and the motion passed unanimously.

10. TCE REPORT: (Russ Pearson, Travis Erickson)

On behalf of the Trial Court Executives, Russ Pearson addressed a few initiatives that have been going on over the past year.

- Active Shooter Training
- Several employee reward activities, commemorative coins or thank you cards
- Exercise agreements
- Mental health benefits offered to employees
- Work from home flexibility

Travis Erickson expressed appreciation to the Council and AOC leadership for implementing ongoing pay for performance for their staff, who have also expressed appreciation for these increases. He also talked about brainstorming to identify alternative ways to reward the staff during the years when that funding is not available.

11. AI SURVEY REVIEW: (Tucker Samuelson)

Mr. Gordon gave an overview about the initiation of the AI survey, which has since been sent to court staff and judges. The idea was that the results from the survey would be used to inform policies surrounding the use of AI in the judiciary.

Heather Marshall presented the results of the survey, which received a 78% response rate. Chat GBT was the AI service mostly used, followed by Claude. 11% of those who said they do not currently use AI in their job said that they would like to in the future, but the rest were split between not wanting to use AI and not being sure if they wanted to use it. Ms. Marshall then went through some of the comments from the surveys. The most common theme was a lack of understanding of how AI could be used in the courts and/or a desire for training on AI.

12. WATER LAW EDUCATION: (Judge Kate Appleby, Dr. Don Judges)

Judge Kate Appleby gave an introduction to water law and the online, on-demand education program for judges. The judiciary has partnered with the National Judicial College to provide a network for judges who hear water law cases. Dr. Don Judges gave a presentation on the course website.

Judge Appleby explained that they will need more resources to continue the work, with which they would be able to build more modules on the website. There are a handful of other states who have also committed to contribute financially to the platform as well. Judge Appleby asked for feedback from the Council, once they've had the opportunity to look at the presentation. Southern Utah University (SUU) will likely host the material on SUU's LMS system, and Dr. Judges added that he and Judge Appleby can also look at adding a link to the court's LMS.

Mr. Gordon and Chief Justice Durrant thanked Judge Appleby and Dr. Judges for spearheading this project, and for all of their hard work.

13. LEGISLATIVE UPDATE: (Michael Drechsel)

By the close of this year's legislative session, 591 bills were passed. Michael Drechsel has identified 113 bills that are the most relevant for the judiciary. He is now working on summarizing them in a document to distribute and discuss during legislative updates. Mr.

Drechsel will be holding a number of trainings and workshops to talk through the bills and the judiciary's implementation plan prior to the general effective date of May 1, 2024.

Mr. Drechsel highlighted the following two items:

As Mr. Gordon mentioned previously, SB 200 adjusted the membership of CCJJ and the Sentencing Commission. Beginning May 1, 2024, the judge members will become non-voting members. For each of those positions, they will now be appointed by the Judicial Council. In the April Judicial Council meeting, it will be necessary to decide which District Court judges and Juvenile Court judges the Council will want to appoint to those committees.

The Home Court Pilot Program, which will be operated out of the 3rd District Court, will create a court somewhere between a criminal problem solving court and a civil involuntary commitment. This is a civil court pilot based off of a petition to put an individual into the program. The judge who administers this pilot program will preside over the court as well as work with a multidisciplinary team to provide services and accountability for an individual who is eligible for the program. It will be a collaborative effort between the 3rd District Court, community stakeholders, and the Department of Health and Human Services. The pilot program won't go into effect until October 1, 2024, and the new judge takes office so that there is judicial capacity to administer the program.

14. APPROVAL OF IT SECURITY POLICIES: (Ron Gordon)

Mr. Gordon asked the Council to consider delegating the responsibility of getting final approval on technology security policies to the Management Committee, primarily to avoid potential security issues discussing those policies in open meetings.

Motion: Judge Low made a motion to delegate the responsibility of approving technology security policies to the Management Committee. Margaret Plane seconded the motion, and the motion passed unanimously.

15. RULES FOR FINAL APPROVAL: (Keisa Williams)

During the December 18, 2023 meeting, the Judicial Council approved amendments to Code of Judicial Administration (CJA) rule 4-202.03 on an expedited basis with a January 1, 2024 effective date. The rule then went out for a 45-day public comment period, which closed on February 3, 2024. Two public comments were received.

The Policy, Planning & Technology Committee (PP&T) recommended the adoption of one minor, clarifying amendment in response to the first public comment. Because the proposed amendments are not substantive, PP&T did not believe a second comment period was necessary. However, an expedited effective date is warranted to provide clarity for court staff. The new proposed effective date is March 18, 2024.

Motion: Judge Mortensen made a motion to approve the change to rule CJA 4-202.03 as presented with an effective date of March 18, 2024. Judge Jon Carpenter seconded the motion, and the motion passed unanimously.

16. OLD BUSINESS/NEW BUSINESS: (All)

There was no old or new business.

17. EXECUTIVE SESSION

Motion: Judge Mortensen made a motion to move into an executive session for the purpose of discussing the character, professional competence, or physical or mental health of an individual, and legal advice of counsel. Ms. Plane seconded the motion, and the motion passed unanimously.

18. ADJOURN

The meeting adjourned.

CONSENT CALENDAR ITEMS

1. Forms Committee Forms for Approval