

JUDICIAL COUNCIL MEETING

AGENDA

Monday, June 24, 2013
Courtroom, 2nd Flr
Garfield County Courthouse
Panguitch, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. Chief Justice Matthew B. Durrant
3. 9:15 a.m. Administrator's Report. Daniel J. Becker
4. 9:30 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. Justice Jill Parrish
Policy and Planning Judge Greg Orme
Bar Commission. John Lund, esq.
(Tab 2 - Information)
5. 9:40 a.m. Standing Committee on Children and Family Law
Update. Judge Thomas Higbee
(Information) Ray Wahl
6. 10:00 a.m. Proposed Study Item. Daniel J. Becker
(Tab 3 - Information)
7. 10:20 a.m. Kanab Justice Court – Dissolution Issue. Rick Schwermer
(Tab 4 - Action)
- 10:40 a.m. Break
8. 10:50 a.m. City Arrangement with Online Traffic School Provider
to Collect Plea in Abeyance Fee. Ray Wahl
(Tab 5 – Action)
9. 11:10 a.m. Senior Judge Certification. Tim Shea
(Tab 6 – Action)
10. 11:05 a.m. Sixth District Update and Tour of Panguitch
Court Facility. Judge Wallace A. Lee
(Information) Wendell Roberts

- 12:00 p.m. Lunch
- 11. 12:30 p.m. Executive Session.
- 12. 12:50 p.m. Preliminary FY2015 Budget Related Issues. Daniel J. Becker
- 13. 1:50 p.m. Adjourn

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

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| 1. Committee Appointment
(Tab 7) | Ron Bowmaster |
| 2. Rules for Final Comment
(Tab 8) | Tim Shea |
| 3. HR Policy Approval
(Tab 9) | Rob Parkes |
| 4. Grant Approval
(Tab 10) | Katie Gregory |
| 5. Revised Continuity of Operations Plan
(Tab 11) | Carol Price |

TAB 4

Kane County Letter



Kane County Attorney's Office

JIM R. SCARTH

Kane County Attorney

ROBERT VAN DYKE

Deputy Kane County Attorney

KENT A. BURGGAFF

Deputy Kane County Attorney

76 North Main, Kanab, Utah 84741

Phone: 435-644-5278 / Fax: 435-644-8156

Email: attorney@kane.utah.gov

May 28, 2013

Kanab City Council
76 No. Main Street
Kanab, UT 84741

RE: *Kanab City Justice Court Dissolution*

Dear Mayor Laycook and City Council Members,

As you are aware, during the last few months Kane County and Kanab City have been working towards a resolution regarding dissolution of the Kanab City Justice Court. Although initially it appeared that we had reached a favorable resolution, negotiations have now fallen through, and it appears that the Court may be on a timeline to dissolve in less than five weeks.

Kane County simply has not had adequate time to prepare or budget for the impact of the projected dissolution of your Court. In January of 2012, the Judicial Council met and discussed the recertification of the Kanab City Justice Court because Kanab City had failed to provide an ordinance of recertification. The Judicial Council decided to recertify the court by waiving and extending the deadline for the ordinance until July 1st of 2012. If the ordinance was not received by that time, the Judicial Council would treat the lack of action as Kanab City's notice of intent to dissolve. Neither the Judicial Council nor Kanab City made Kane County aware of the January decision of the Judicial Council or the passing of the July 1st deadline. Sometime late last year the Kanab City Manager informed me personally that the Court would be dissolved as of July 1st 2013. As of today the County has yet to receive any official notice of the City's intentions.

I do not state the above as part of a threat of any proposed action on the part of the County or to blame anyone. I simply want you to understand that the County is not prepared to take over the Court on July 1st without undue burden to the County budget, my office personnel, and the County Justice Court personnel, not to mention the confusion to the defendants and other litigants whose cases are now being heard in the City Court who have not been notified of the impending change.

I hope that you can also see the concern that your constituents may have with the sudden change to the Court. For example a criminal defendant may have a trial that is heard by Judge Johnson and then after the Court is dissolved that same defendant is sentenced by Judge Heaton who does not have the benefit of hearing the merits of the case. Similarly, in a small claims case, Judge Johnson may have held an evidentiary hearing on a significant motion which after the

hearing is being briefed, or he has taken the matter under advisement. Then the Court is dissolved and Judge Heaton would have to make a substantive decision without having the benefit of the evidence or oral argument presented to Judge Johnson. These are significant issues which need time and planning to make sure that individuals are treated fairly.

I therefore ask that that you pass an ordinance of recertification which will recertify the Kanab City Justice Court through the end of Judge Johnson's current term. Then, if you continue to desire to dissolve the Court, one year before the end of the current term you may follow the established procedures for its formal dissolution.

If that is not acceptable, at a minimum I ask that you join with me in requesting that the Judicial Council extend the dissolution from July 1st of this year until January 1st of next year to allow proper time to budget and prepare for wind-up and transfer of case-loads. In particular, we need to ensure that defendants and litigants are adequately notified of the change-over so that pending City Court criminal cases and small claims procedures are not disrupted.

For your information the Judicial Council will be meeting June 24th in Panguitch and I have requested that they place the Kanab City Justice Court on their agenda. I have specifically requested that they waive the ordinance requirement completely and recertify the Court through the duration of Judge Johnson's current term or that alternatively they extend the dissolution until the end of the calendar year.

Please let me know your decision with regard to this matter as soon as possible. Thank you.

Sincerely,



Robert Van Dyke
Chief Deputy Kane County Attorney

CC: Judge Gary Johnson
Judge Kirk Heaton
Commissioner Jim Matson
Richard H. Schwermer, AOC ✓



Kane County Attorney's Office

JIM R. SCARTH

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June 3, 2013

Chief Justice Matthew B. Durrant
Utah Judicial Council
Utah Supreme Court
P.O. Box 140210
Salt Lake City, Utah 84114-0210

*Also sent via facsimile transmission to: 801-238-7980
801-578-3999*

RE: *Kanab City Justice Court Dissolution*

Dear Chief Justice Durrant:

Forgive me for interrupting your busy schedule for what may seem a trivial matter. I have made several attempts to contact Richard Schwermer of the AOC, who I understand is assigned to Justice Courts. Although he has responded to me in the past, for unknown reasons he has not responded to my recent emails or phone calls. In previous conversations with Mr. Schwermer and with Kanab City, I believe that the Kanab City Justice Court is set to dissolve on July 1st, 2013. In short I am requesting that the Judicial Council consider the Kanab City Justice Court Dissolution at the June 24th meeting in Panquitch. For reasons discussed below, Kane County is objecting to the dissolution taking place July 1st, 2013. We further request one of three possibilities: 1) the Council waive the recertification ordinance requirement entirely and allow the Kanab City Justice Court to continue until a time when Kanab City affirmatively acts to dissolve; 2) the Council extend the date of dissolution to July 1st, 2014, so as to comply with the notice requirements of state law; or 3) the Council extend the date of dissolution at least until January 1st, 2014, to allow a minimal period of planning to take place before dissolution.

In January of 2012, the Judicial Council met and discussed recertification of all the Justice Courts in the state, including the Kanab City Justice Court. Most of the Justice Courts in the State had completed all of the requirements for recertification. Even though Kanab City had met all of the substantive requirements to recertify, for some unknown reason, they had failed to

provide an ordinance of recertification. The Council decided to recertify the Kanab City Justice Court by waiving and extending the deadline for the ordinance until July 1, 2012. If the ordinance was not received from Kanab City by that time, the Judicial Council indicated that it would treat the lack of action as Kanab City's notice of intent to dissolve. (Please see the attached minutes from the Judicial Council Meeting held in January, 2012.)

I must assume that the Judicial Council fully expected Kanab City to comply by July 1st of 2012, and did not expect them to remain out of compliance. However, Kanab City has yet to provide the recertification ordinance, and Kane County is left to assume at this point that the Judicial Council is treating the City's inaction as notice of intent to dissolve, exactly as the Council said it would do in the January 2012 meeting. This places the Court on a timeline to dissolve this July. As you are aware, notice of intent to dissolve a Class III or Class IV Justice Court shall be given by July 1, at least one year prior to the effective date of the dissolution, to both the Judicial Council and to the County that receives the case load of the dissolving Court. Utah Code §78A-7-123(2)(a)&(c).

Kane County has not received proper notice of the dissolution for it to occur July 1st of this year. Just a few weeks ago I researched the minutes of the Judicial Council meetings and became aware of the January 2012 decision. I have searched Kanab City records and I have not been able to find any official action regarding their intentions to dissolve their Court, or any official decision to refuse to recertify. My belief is that the Kanab City Council did discuss this issue in several meetings but did so in closed session and did not take any action. The earliest information the County received regarding this issue was provided in an email to me from the Kanab City Manager at the end of July 2012, where he requested a meeting regarding the City Justice Court. (Please see attached email). I believe that we did meet July 27, 2012, and he discussed the possibility that the Court would be dissolved. It wasn't until much later in the year that the Kane County Justice Court and the Kane County Board of Commissioners were adequately informed about the City's intentions with the Court. As of today there is still no official written notice of intent from the City. Clearly the County did not receive notice by July 1st, 2012 and under state code, this would place the Court on a track to dissolve July 1st of 2014, not 2013.

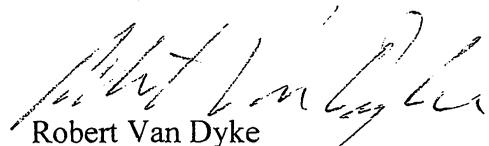
Earlier this year the City and the County entered into negotiations where we could agree on a final date of dissolution and the manner in which the dissolution could take place without

having to approach the Judicial Council. Just over a week ago those negotiations failed and we are uncertain about how to proceed. The County at this point has several budget concerns and more importantly we are concerned about how to transfer cases from one Court to the other. It is possible at this point that the County Justice Court Judge will be required to sentence criminal defendants without having the benefit of having heard their case. Additionally, he could be required to make rulings on substantive issues in both criminal and small claims cases without the benefit of taking evidence or hearing oral argument. I hope you can see that dissolution in just over four weeks would be not only illegal, but impracticable and unjust.

Although the notice requirement for dissolution is at least one year, under state code, upon request of a County or Municipality, the Judicial Council may shorten the period of dissolution. U.C.A. 78A-7-123(3). Kane County is not making that request and I am unaware of any request from Kanab City to shorten the period. However, if the Council determines that the dissolution shall proceed on the timeline established by state code (July 1st, 2014), Kane County would not object to Kanab City's request to shorten that period by six months to January 1st, 2014.

Again, I am requesting that this matter be placed on your June 24th Judicial Council meeting agenda. At a minimum the County needs until January 1st, 2014, in order to properly prepare for the dissolution of the Kanab City Justice Court. Please let me know of your decision and if a representative from the County would be able to attend the meeting. Thank you.

Sincerely,



Robert Van Dyke
Chief Deputy Kane County Attorney

cc : Judge Gary Johnson, Kanab City Justice Court
Judge Kirk Heaton, Kane County Justice Court
Commissioner Jim Matson, Kane County
Mayor Nina Laycook, Kanab City
Richard H. Schwermer, AOC

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

JUDICIAL COUNCIL MEETING

Minutes
Monday, January 23rd, 2012
Judicial Council Room
Matheson Courthouse
Salt Lake City, UT

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham
Hon. Kimberly K. Hornak, vice chair
Justice Jill N. Parrish
Hon. Judith Atherton
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. John Sandberg
Hon. Paul Lyman for Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore
Lori Nelson, esq.

EXCUSED:

Hon. Larry Steele

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Lisa-Michele Church
Debra Moore
Rick Schwermer
Tim Shea
Nancy Volmer
Tom Langhorne
Shari Veverka
Ron Bowmaster

GUESTS:

Aaron Falk, SL Tribune
Joanne Slotnik, JPEC
J. Daniel Bertch, Draper City
Jonna Crump, Draper City
Doug Ahlstrom, Draper City
Rodney Snow, Utah State Bar
Robert Rice, Utah State Bar
John Baldwin, Utah State Bar
Michelle Harvey, Utah State Bar
Sue Crisman

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)**

Chief Justice Durham welcomed everyone to the meeting. She excused Judge Steele from the meeting, and she noted that Judge Paul Lyman would be sitting in for Judge Steele.

Motion: Judge Hornak moved to approve the minutes. Judge Stoney seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported on the following:

Judge Tyrone Medley received the Civil Rights Award at an event held by the Salt Lake Chapter of the NAACP on January 16.

The State of the Judiciary will be given later this afternoon. A legislative leadership meeting is scheduled for February 2.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

State of the Judiciary Address. The State of the Judiciary will be given this afternoon; once to the House and once to the Senate. Transportation details were provided to Council members who planned to attend the State of Judiciary.

Legislative Appropriations Process. The Appropriations Subcommittee will begin their work on Wednesday, January 25. Mr. Becker mentioned the dates the Executive Appropriations Committee is scheduled to meet during the 2012 Legislative Session. Preliminary numbers relative to the State's budget were provided. The courts budget will be considered by the Appropriations Subcommittee on Friday, February 3. Mr. Becker, Mr. Wahl and Mr. Schwermer met with Representative Hutchings, co-chair of Appropriations, on January 18.

Juab County Court Facility Update. A letter was sent to the Juab County Attorney on behalf of the courts to express our understanding of the county's desire to move forward with building a new court facility, but if the project does not move forward; the Judicial Council will consider moving court to an adjacent county. Mr. Becker highlighted the following areas being addressed, temporarily, to help with the current needs of the court facility: 1) Viack is being set up to reduce the need to transport prisoners from the county jail to the court facility, and 2) addressing issues to improve building security. Mr. Becker noted that Viack would be operational in the court facility in approximately four weeks.

The first planning session with the Juab County Commission and the Juab County Attorney has been held to address the needs of the new court facility. Monthly meetings will be held during the planning process.

Judicial Performance Evaluation Commission. Ms. Slotnik will provide an update on behalf of the Commission later in the meeting. Vacancies on the Commission were noted and included: 1) a vacancy to fill Mr. Chris Buttars' position who recently resigned, and 2) a vacancy to fill Mr. V. Lowry Snow's, commission chair, who resigned to fill Representative David Clark's vacancy in the House of Representatives.

Judicial Appointments. Mr. Curt Garner, the Governor's appointee to fill Judge Peuler's position in the Third District, has withdrawn his application.

Judge Tyrone Medley has announced his upcoming retirement effective June 29, 2012.

The Nominating Commission will post notices to fill Judge Peuler's and Judge Medley's vacancies at the same time.

Annual Report. Mr. Becker noted that a copy of the current Annual Report was provided to each member. He commended Ms. Volmer for a well-prepared report.

April Council Meeting. Mr. Becker made a request to the Management Committee to change the April 23 meeting to April 30. The Committee approved the date change. Ms. Jody Gonzales will send a notice to the Council with the April meeting date change.

Executive Session. An executive session will need to be held later in the meeting.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda. Chief Justice Durham noted that the minutes reflect a vacancy on the Judicial Conduct Commission for a lawyer representative. Mr. Jim Jardine has replaced the current Commission chair.

Liaison Committee Report:

Justice Parrish reported on the following:

She mentioned that the Committee has held two meetings. She updated the Council on the types of legislation being introduced and the position being taken by the Committee on particular pieces of legislation.

Policy and Planning Meeting:

Judge Orme reported on the following:

The meeting minutes accurately reflect the issues discussed.

Several rules are being considered for final action later on the agenda and published for comment on the consent calendar. Judge Orme mentioned that discussion took place relative to a rule for court referees and social media.

Bar Commission Report:

Chief Justice Durham reported that Ms. Nelson and other members of the Bar were meeting with the Governor, and she would be late to the meeting. Chief Justice Durham mentioned that she and Mr. Becker met with Bar leadership last week to discuss the pro bono initiative which will be presented later on the agenda.

5. SIX MONTH WORKLOAD REVIEW: (Kim Allard)

Chief Justice Durham welcomed Ms. Allard to the meeting.

Ms. Allard reviewed district court case filings and juvenile court referrals for the first six months of FY 2012 compared to FY 2008.

Overall, district court case filings show an overall increase of 5% for the first six months of FY 2012 compared to FY 2008. The increase is due to a 72% increase in judgements. She highlighted the following district court case filing data to include: 1) criminal, 10% decrease; 2) felonies, 2% decrease; 3) misdemeanors, 23% decrease; 4) domestic, 6% increase; 5) divorce, 3% increase; 6) custody and support, 82% increase; 7) paternity, 2% decrease; 8) general civil, 10% decrease; and 9) debt collection, 17% increase. She noted the change to the small claims category with the move of small claims to justice courts.

Juvenile court referral data included: 1) felony, 28% decrease; 2) misdemeanor, 16% decrease; 3) adult violations, 25% increase; 4) child welfare proceedings, 4% decrease; 5) termination of parental rights, 17% decrease; 6) voluntary relinquishment, 24% increase; and 7) domestic/probate, 33% increase.

Discussion took place.

Ms. Allard was thanked for her update.

6. RULES FOR FINAL ACTION: (Tim Shea)

Chief Justice Durham welcomed Mr. Shea to the meeting.

Mr. Shea reported that there were six rules being recommended for approval. The first three rules included:

CJA 03-0101. Judicial Performance Standards. This is a new rule that establishes standards of performance for minimum education and cases under advisement for application by the Judicial Performance Evaluation Commission.

CJA 04-0704. Authority of county clerks to extend payment schedule and dismiss citations. The rule has been amended to allow clerks to dismiss citations as permitted in the Uniform Fine/Bail Schedule.

CJA 04-0907. Mandatory divorce education. The rule simplifies the policy on access to divorce orientation courses and divorce education courses.

Motion: Judge Hornak moved to approve CJA 03-0101 as recommended. Judge Atherton seconded the motion, and it passed unanimously.

Motion: Judge Maughan moved to approve CJA 04-0704 and CJA 04-0907 as recommended. Judge Stoney seconded the motion, and it passed unanimously.

Mr. Shea reviewed the following rules being recommended for approval:

CJA 04-0202.02. Records classification. The rule has been amended to modify records to be classified as sealed, private and protected.

CJA 04-0202.04. Request to access a record associated with a case; request to classify a record associated with a case. The rule has been amended to move from Rule 4-202.02 to this rule descriptions of records that require judicial approval to classify as non-public.

CJA 04-0202.09. Miscellaneous. This rule has been amended to require a person filing a record with the court to identify the record as non-public if it qualifies as non-public.

CJA Appendix I. Summary of Classification of Court Records. This rule is new and summarizes the classification of record series by case type.

Motion: Judge Mortensen moved to approve the rules as recommended. Judge Harmond seconded the motion, and it passed unanimously.

7. NEW JUSTICE COURT JUDGE CERTIFICATION: (Rick Schwermer)

Mr. Schwermer presented the recommendations for justice court judge certification for Mr. Ray Robert Richards.

Motion: Judge McCullagh moved to certify Mr. Ray Robert Richards as a justice court judge. The motion was seconded, and it passed unanimously.

8. MUNICIPAL JUSTICE COURT RECERTIFICATION: (Rick Schwermer)

Mr. Schwermer reminded the Council that justice courts are certified every four years by the Council. The certification process involves application by the sponsoring governmental entity, and a review of compliance with statutes and with Judicial Council operational standards.

He reviewed the courts not found in compliance to include:

Delta. They are open Monday through Thursday, and they hold court two Fridays per month. Two to three Fridays per month they are not open. The committee recommends a waiver if the city agrees to post its hours on their website, and if they add a drop-box so filings and payments can be made on Fridays when the court is not open. Delta has agreed to the conditions.

Motion: Judge Mortensen moved to grant a waiver to the Delta Justice Court as recommended by the committee. Judge Orme seconded the motion, and it passed unanimously.

Draper. As a Class I court, the judge is presumed to be full time. Mr. Schwermer reminded the Council that a waiver was granted in 2009 relative to the full-time judge requirement. The Management Committee discussed the matter in their January meeting and recommended the issue of what constitutes a full-time justice court judge be referred to Policy and Planning for further review and a one-year waiver be granted to Draper while the issue is studied further. Discussion took place and input was given by Draper Justice Court officials.

Motion: Judge Hornak moved to allow Policy and Planning to review the issue of what constitutes a full-time justice court judge further and grant the Draper Justice Court a one-year waiver while the issue is being addressed. Judge Stoney seconded the motion, and it passed unanimously.

Heber. There is no victim/witness room available in the facility, and the judge finds a gavel “unnecessary”. A letter has been sent to the Heber Justice Court with no response. Judge Stoney provided information relative to the Heber Justice Court building. Discussion took place.

Motion: Judge Hornak moved to conditionally decertify the Heber Justice Court if they do not comply by February 1. Judge Sandberg seconded the motion. Judge McCullagh moved to amend the motion to allow the Heber Justice Court to comply by February 27. Judge Maughan seconded the amendment, and it passed unanimously. The motion passed as amended.

Hildale. They do not appear to be open on Fridays, and the judge has been “temporary” for several years. A senior judge has been holding court ever since the previous judge left office. Hildale has responded noting that they will be open on Fridays, but they would like permission to keep using a senior judge for a year, while the process to replace him takes place. Options and discussion took place relative to the continued use of a senior judge.

Motion: Judge Stoney moved to decertify Hildale if they have not begun the process to fill their justice court judge vacancy by June 1. Judge Hornak seconded the motion, and it passed unanimously.

Naples. The Naples facility is not within the boundaries of the municipality. This is a recent move, based on the new county facility opening and security concerns. Naples has responded that they will comply.

Orderville. There is no space for a jury, and there is no jury deliberation room. The judge responded that he will comply.

Parowan. The requirement is for two separate tables for counsel. The city uses a 12 foot long table with sufficient separation provided. The city requests a waiver.

Motion: It was moved and seconded to allow a waiver of the requirement for two separate tables for counsel. The motion passed unanimously.

Santa Clara. The court is not open on Fridays. Santa Clara has responded that they will be open on Fridays as required.

Kanab. The judge, rather than the city, submitted a recertification affidavit. Separately, the city has asked for an extension of time to consider all of their options relative to the court, rather than providing the required ordinance for recertification. Discussion took place.

Motion: Judge McCullagh moved to certify Kanab, waiving the requirement to pass an ordinance for recertification until July 1, 2012. If the recertification ordinance has not been received by that date, it will then be treated as a request to dissolve the court. [inaction by Kanab] and the court will be dissolved effective, July 1, 2013. Judge Stoney seconded the motion, and it passed unanimously.

Mr. Tom Langhorne, new Education Director, was introduced and welcomed.

9. LEGISLATIVE UPDATE: (Rick Schwermer)

Mr. Schwermer provided a legislative update to the Council. He noted that all the courts bills have sponsors, and he highlighted the status of the Self-Help Center Bill.

10. SENIOR JUDGE CERTIFICATION: (Tim Shea)

Mr. Shea reported that Judge J. Dennis Frederick has applied to be appointed as an Inactive Senior Judge.

Motion: Judge Orme moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge J. Dennis Frederick as an Inactive Senior Judge. Judge McCullagh seconded the motion, and it passed unanimously.

11. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik)

Chief Justice Durham welcomed Ms. Slotnik to the meeting.

Ms. Slotnik highlighted the Commission's proposed 2012 statutory changes and rationale for changing the following statutes: 1) 78A-12-203 - Judicial performance evaluations, 2) 78A-12-204 - Judicial performance survey, 3) 78A-12-205 - Minimum performance standards, and 4) 78A-12-206 - Publication of the judicial performance evaluation. She noted that the proposed change to the minimum performance standards would exclude juror responses.

Court-room observation feedback and their weight will be used with regards to a minimum performance standard for procedural fairness with the 2014 judges up for retention. She mentioned that training for courtroom observers is ongoing.

Discussion took place with concern being expressed over the proposal to eliminate juror survey responses from the minimum performance standards.

Reports relative to 2012 judges up for retention and 2014 mid-term will be sent out between now and mid-February.

Ms. Slotnik reported that the Commission received grant funding from the State Justice Institute (SJI) to work with the National Center for State Courts (NCSC) on the pilot program relative to evaluating part-time justice court judges. The pilot, which includes the 2014 part-time justice court judges up for retention, will begin in mid-February and run for six months.

She highlighted the following changes in membership to the Commission: 1) Mr. Chris Buttars has resigned from his position on the commission leaving a vacancy, and 2) Commission chair, V. Lowry Snow has resigned his position to fill the vacancy in the House of Representatives left by Representative David Clark. Mr. Tony Schofield will step in as Commission chair until the elections are held in July.

Ms. Slotnik highlighted the following relative to public comments: 1) they are not viewable by the public, 2) comments will be part of the 2012 retention evaluation reports, and 3) public comments in the 2012 reports will be placed on the website.

Chief Justice Durham thanked Ms. Slotnik for her update.

12. UTAH STATE BAR PRO BONO PROGRAM: (Rod Snow and Rob Rice)

Chief Justice Durham welcomed Mr. Rod Snow, Bar president and other State Bar leadership in attendance.

Mr. Snow introduced members of the State Bar Commission who were present. He mentioned that the Bar is working to create a voluntary program whereby more lawyers are available to provide pro bono services in Utah.

Mr. Rice provided an overview of the Pro Bono Commission which will be a program of the Utah State Bar. The basic concept is three fold and will include the following areas of focus: 1) to develop and maintain a list of volunteer lawyers who are willing to provide pro bono legal services; 2) to institute a "check yes" campaign that will work in connection with the Bar's annual application process allowing for members to check a box saying that they are willing to be part of a pool of lawyers that will provide pro bono legal services, with this, a centralized electronic database will collect the information gathered by participating lawyers; and 3) to create district-based pro bono committees in each of the eight judicial districts statewide.

It was noted that similar district-based pro bono commissions currently exist in other states. Mr. Rice highlighted other non-profit services that currently provide legal representation for low-income Utahns. However, there is still a large number of civil legal cases where no attorney has been able to assist low-income Utahns in resolving those problems. Creation of the Pro Bono Commission would be a partial solution and would help make a dent in resolving those matters.

The Pro Bono Commission would consist of 15 members in the legal community to serve on the statewide commission. Ms. Michele Harvey would support the Commission as the coordinator by assisting with the overall statewide needs as well as the creation of individual committees in each judicial district. The basic charge for each district-based committee will include: 1) creating a committee suited to the needs of district, and 2) create a vehicle through which volunteer lawyers will be matched with pro bono clients.

The Bar Commissioners will be serve as co chairs in each of the district committees. Ms. Sue Crisman will be involved in supporting the Commission at the district and statewide levels. In the future, the Bar intends to fund part-time private staff members to assist in the matching of lawyers and pro bono clients.

Mr. Rice noted that several members of the Bar had the opportunity to review the program set up in Albuquerque. Upon review of Albuquerque's program, it was determined that judicial support and involvement in the process of recruiting lawyers to become involved in providing pro bono legal services was important to success of the program.

A draft copy of the proposed resolution was distributed to members of the Judicial Council. Mr. Rice asked the Council to consider passing a resolution to include the following: 1) to endorse conceptual support for the Pro Bono Commission, 2) to allow district court judges and other judiciary staff to participate as members of the Pro Bono Commission, and 3) if the Council supports the concept, allow district court judges to serve on the district-based committees as co chairs.

The question was asked regarding participation by the federal court. Mr. Rice mentioned that there currently is participation on behalf of the federal courts. It was noted that the focus has primarily been on state court judges with the program being district-based.

Questions were asked and discussion took place.

Mr. Rice was asked if the Board of District Board Judges were apprised of the Pro Bono Commission. He mentioned that a slightly different concept was presented to the Board of District Court judges at the end of 2011 than what is called for in the proposed resolution, but it reflects input provided by the Board of District Court judges. Ms. Moore provided her opinion on behalf of the Board regarding their view of the concept.

The need for pro bono services in rural districts relative to juvenile court cases was discussed. Mr. Rice provided clarification relative to training, mentoring and resource availability in areas outside of the lawyer's expertise.

Mr. Rice reviewed the logistics in setting up the Pro Bono Commission. He mentioned that participation by the judiciary would be made by invitation and be voluntary.

Motion: Judge Orme moved to defer the Council's consideration of the resolution until the February meeting, refer it to Policy & Planning for any suggestions and simultaneously send it to the Board of District Court judges for their consideration. It was amended to allow for the Council to accept in concept the Bar's process to create the Pro Bono Commission and move forward with creation of the committees. Judge Orme accepted the amendment. Judge Hornak seconded the motion to include the amendment. The motion passed with Judge Maughan voting no.

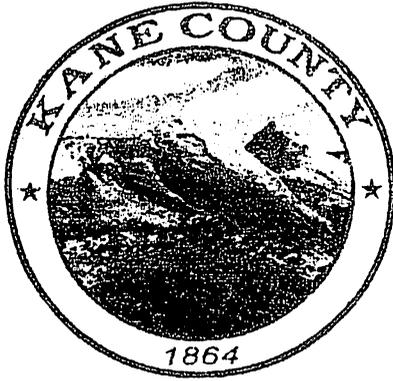
Motion: Judge Hornak moved to enter into an executive session to discuss matters of security and personnel issues. Ms. Nelson seconded the motion, and it passed unanimously.

13. EXECUTIVE SESSION:

An executive session was entered into at this time.

14. ADJOURN

The meeting was adjourned.



Kane County Attorney's Office

JIM R. SCARTH

Kane County Attorney

ROBERT VAN DYKE

Deputy Kane County Attorney

KENT A. BURGGRAAF

Deputy Kane County Attorney

76 North Main, Kanab, Utah 84741

Phone: 435-644-5278 / Fax: 435-644-8156

Email: attorney@kane.utah.gov

June 19, 2013

Mayor Laycook and Kanab City Council
76 North Main
Kanab, Utah 84741

RE: *Kanab City Justice Court Dissolution*

Dear Madam Mayor and City Council Members:

As you are aware the Utah State Judicial Council will hold a regular meeting this coming Monday, June 24th. They have accepted my request to address and clarify the Kanab City Justice Court Dissolution at this meeting. Initially my request was that the court remain open until July 1st of next year or at a minimum January 1st of next year in order to allow enough time for effective and necessary planning.

Although I have received conflicting information it is my understanding that Kanab City desires that dissolution take place no later than October 1st and your attorney will make that request to the Judicial Council. In the spirit of cooperation, Kane County will also request that dissolution take place on October 1st. I will be attending the Judicial Council meeting and I will do whatever I can to ensure that the date of dissolution is no later than October 1st. Assuming that the Judicial Council agrees with us, I hope that we can move forward and address this issue with open and effective lines of communication and mutual trust.

Sincerely,

Robert Van Dyke

Chief Deputy Kane County Attorney

cc: Kane County Commissioners

Kanab City Letter

Mayor

Ina Lycoo

City Manager

Duane Huffman

Treasurer

Gene Johnson



KANAB
— UTAH —

City Council

James G. Forensick

Cheryl Brown

Scott Carpenter

Joe B. Wright

Robert Chamberlain

June 18, 2013

Chief Justice Matthew B. Durrant
Utah Judicial Council
Utah Supreme Court
P.O. Box 140210
Salt Lake City, UT 84114

RE: Kanab City Justice Court Dissolution

Dear Chief Justice Durrant and Members of the Judicial Council:

I understand that at the June 24th meeting, the Judicial Council is scheduled to discuss a request from Kane County Chief Deputy Attorney Robert Van Dyke to have the Kanab City Justice Court remain open beyond July 1, 2013.

For the last year, Kanab City has operated under the understanding that the Judicial Council dissolved the court effective July 1, 2013 (see enclosed correspondence with Mr. Schwermer). Mr. Van Dyke's assertions of inadequate notice are a result of the unique manner in which this court is being dissolved; however, it is clear that Mr. Van Dyke and the Kane County Justice Court have indeed been aware of the court's dissolution.

The Kanab City Court is an enormous financial drain on the citizens of Kanab, and we believe that justice will still be well served by the Kane County Justice Court (which is also located in Kanab City). This confusion about the status of the Kanab City Court risks perpetuating that burden.

I will be in attendance at the June 24th meeting to answer any questions members of the Judicial Council may have in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane Huffman", with a horizontal line extending to the right.

Duane Huffman, City Manager

From: [Rick Schwermer](#)
To: [Duane Huffman](#)
Cc: [Rick Schwermer](#); [Mayor Laycook](#); [Judge Kirk Heaton](#); [Judge Gary Johnson](#); [Dan Becker](#)
Subject: Re: Kanab City Justice Court
Date: Tuesday, July 31, 2012 2:46:41 PM

Duane -

Thanks for the follow-up. Unless the city has other plans, we are assuming that the court will be closing June 30, 2013. Jurisdiction over current cases and future filings would then shift to the Kane County Justice Court on July 1, 2013. You would need to resolve with the county who would be responsible for prosecution, but other than that, I'm not aware of anything further you would need to do in advance of that date. Please let me know if you have questions. - Rick

On Mon, Jul 23, 2012 at 1:57 PM, Duane Huffman <duane.huffman@kanab.net> wrote:

Hi Rick,

I following-up on your letter from 1-26-12 concerning the Kanab City Justice Court. The letter stated that if no request for re-certification was received by July 1, 2012, then the Judicial Council would take that as notification of the intent of the City to dissolve the court effective July 1, 2013.

No request for re-certification was prepared by the Kanab City Council, so I am writing for information to better understand the next steps in the court's dissolution.

Thanks.

Duane Huffman

City Manager

Kanab City

76 N Main

Kanab, UT 84741

duane.huffman@kanab.net

Ph [435-644-2534](tel:435-644-2534)

<http://www.kanab.utah.gov/>

--

Richard Schwermer
Assistant State Court Administrator
ricks@utcourts.gov
801-578-3816 (Matheson Office)
801-538-1751 (Capitol Office)
801-231-8979 (cell phone)

TAB 7

Utah Court of Appeals

Chambers of
Judge Carolyn B. McHugh

450 South State Street
Salt Lake City, Utah 84114 - 0230
(801) 578-3950
FAX (801) 238-7981

June 13, 2013

Chief Justice Matthew B. Durant
Chairperson, Utah Judicial Council
Matheson Courthouse, 450 South State Street
Salt Lake City, Utah 84111

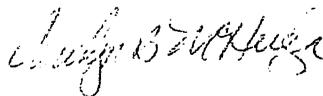
Re: Standing Committee on Technology Membership

Dear Chief Justice Durant:

As you are aware, I serve as the chairperson of the Standing Committee on Court Technology. The Committee develops and then recommends to the Judicial Council, plans, priorities, and strategies that guide and govern technology as applied to Utah's courts and management structure. At present, there is a vacancy on the Committee due to the departure of the member representing the district court judges.

The Board of District Court Judges forwarded three names to the Management Committee for consideration of this position, 1) Judge Mark Kouris, 2) Judge Andrew Stone, and 3) Judge Michael Westfall. From these nominations, the Management Committee recommended that Judge Michael Westfall be appointed to fill the vacancy. As Chair of the Technology Committee, I ask that you act favorably on the recommendation of the Management Committee and appoint Judge Westfall to the Committee.

Sincerely,



Carolyn B. McHugh
Presiding Judge,
Utah Court of Appeals

c: Jody Gonzales
Ron Bowmaster

TAB 8



Administrative Office of the Courts

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

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *T. Shea*
Date: June 11, 2013
Re: Rules for comment

The Policy and Planning Committee recommends that the following rules be published for comment.

Rule summary

CJA 01-0205. Standing and ad hoc committees. Amend. Changes the name of the Court Interpreter Committee to the Language Access Committee.

CJA 03-0306. Court interpreters. Amend. Creates a complaint process for failure to follow the requirements of the rule. Clarifies that Rule 3-306 is not authority to charge for language access costs. Cites the competing authority of federal and state law. Recognizes interpreter credentials from other states. Requires staff to be acting within the scope of human resource policies and procedures, which includes qualifications for a second language stipend, before engaging in a first-hand conversation with a person of limited English proficiency.

CJA 03-0402. Human resources administration. Amend. Changes the name of the career service review board to the grievance review panel.

CJA 04-0110. Transfer of juvenile cases from district and justice courts to the juvenile court. Amend. Technical change, recognizing that Section 78A-7-106 governs transfer of cases from justice court to juvenile court.

CJA 04-0404. Jury selection and service. Amend. Implements the requirement of Section 78B-1-110 that compliance with a summons satisfies a person's jury service obligation for two years. Permits a court to establish a shorter term of service than is provided by rule, but not longer.

CJA 04-0508. Guidelines for ruling on a motion to waive fees. Amend. Includes juvenile court within the guidelines of the rule.

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.

1 **Rule 1-205. Standing and ad hoc committees.**

2 Intent:

3 To establish standing and ad hoc committees to assist the Council and provide
4 recommendations on topical issues.

5 To establish uniform terms and a uniform method for appointing committee
6 members.

7 To provide for a periodic review of existing committees to assure that their activities
8 are appropriately related to the administration of the judiciary.

9 Applicability:

10 This rule shall apply to the internal operation of the Council.

11 Statement of the Rule:

12 (1) Standing committees.

13 (1)(A) Establishment. The following standing committees of the Council are hereby
14 established:

15 (1)(A)(i) Technology Committee;

16 (1)(A)(ii) Uniform Fine/Bail Schedule Committee;

17 (1)(A)(iii) Ethics Advisory Committee;

18 (1)(A)(iv) Justice Court Standards Committee;

19 (1)(A)(v) Judicial Branch Education Committee;

20 (1)(A)(vi) Court Facility Planning Committee;

21 (1)(A)(vii) Committee on Children and Family Law;

22 (1)(A)(viii) Committee on Judicial Outreach;

23 (1)(A)(ix) Committee on Resources for Self-represented Parties;

24 (1)(A)(x) ~~Court Interpreter Language Access~~ Committee; and

25 (1)(A)(xi) Guardian ad Litem Oversight Committee.

26 (1)(B) Composition.

27 (1)(B)(i) The Technology Committee shall consist of one judge from each court of
28 record, one justice court judge, one lawyer recommended by the Board of Bar
29 Commissioners, two court executives, two court clerks and two staff members from the
30 Administrative Office.

31 (1)(B)(ii) The Uniform Fine/Bail Schedule Committee shall consist of one district
32 court judge who has experience with a felony docket, three district court judges who
33 have experience with a misdemeanor docket, one juvenile court judge and three justice
34 court judges.

35 (1)(B)(iii) The Ethics Advisory Committee shall consist of one judge from the Court of
36 Appeals, one district court judge from Judicial Districts 2, 3, or 4, one district court judge
37 from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, one justice court judge,
38 and an attorney from either the Bar or a college of law.

39 (1)(B)(iv) The Justice Court Standards Committee shall consist of one municipal
40 justice court judge from a rural area, one municipal justice court judge from an urban
41 area, one county justice court judge from a rural area, and one county justice court
42 judge from an urban area, all appointed by the Board of Justice Court Judges; one
43 mayor from either Utah, Davis, Weber or Salt Lake Counties, and one mayor from the
44 remaining counties, both appointed by the Utah League of Cities and Towns; one county
45 commissioner from either Utah, Davis, Weber or Salt Lake Counties, and one county
46 commissioner from the remaining counties, both appointed by the Utah Association of
47 Counties; a member of the Bar from Utah, Davis, Weber or Salt Lake Counties, and a
48 member of the Bar from the remaining counties, both appointed by the Bar Commission;
49 and a judge of a court of record appointed by the Presiding Officer of the Council. All
50 Committee members shall be appointed for four year staggered terms.

51 (1)(B)(v) The Judicial Branch Education Committee shall consist of one judge from
52 an appellate court, one district court judge from Judicial Districts 2, 3, or 4, one district
53 court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, the education
54 liaison of the Board of Justice Court Judges, one state level administrator, the Human
55 Resource Management Director, one court executive, one juvenile court probation
56 representative, two court clerks from different levels of court and different judicial
57 districts, one data processing manager, and one adult educator from higher education.
58 The Human Resource Management Director and the adult educator shall serve as non-
59 voting members. The state level administrator and the Human Resource Management
60 Director shall serve as permanent Committee members.

61 (1)(B)(vi) The Court Facility Planning Committee shall consist of one judge from
62 each level of trial court, one appellate court judge, the state court administrator, a trial
63 court executive, and two business people with experience in the construction or
64 financing of facilities.

65 (1)(B)(vii) The Committee on Children and Family Law shall consist of one Senator
66 appointed by the President of the Senate, one Representative appointed by the
67 Speaker of the House, the Director of the Department of Human Services or designee,
68 one attorney of the Executive Committee of the Family Law Section of the Utah State
69 Bar, one attorney with experience in abuse, neglect and dependency cases, one
70 attorney with experience representing parents in abuse, neglect and dependency cases,
71 one representative of a child advocacy organization, one mediator, one professional in
72 the area of child development, one representative of the community, the Director of the
73 Office of Guardian ad Litem or designee, one court commissioner, two district court
74 judges, and two juvenile court judges. One of the district court judges and one of the
75 juvenile court judges shall serve as co-chairs to the committee. In its discretion the
76 committee may appoint non-members to serve on its subcommittees.

77 (1)(B)(viii) The Committee on Judicial Outreach shall consist of one appellate court
78 judge, one district court judge, one juvenile court judge, one justice court judge, one
79 state level administrator, a state level judicial education representative, one court
80 executive, one Utah State Bar representative, one communication representative, one
81 law library representative, one civic community representative, and one state education
82 representative. Chairs of the Judicial Outreach Committee's subcommittees shall also
83 serve as members of the committee.

84 (1)(B)(ix) The Committee on Resources for Self-represented Parties shall consist of
85 two district court judges, one juvenile court judge, one justice court judge, three clerks of
86 court – one from an appellate court, one from an urban district and one from a rural
87 district – one member of the Online Court Assistance Committee, one representative
88 from the Utah State Bar, two representatives from legal service organizations that serve
89 low-income clients, one private attorney experienced in providing services to self-

90 represented parties, two law school representatives, the state law librarian, and two
91 community representatives.

92 (1)(B)(x) The ~~Court Interpreter~~ Language Access Committee shall consist of one
93 district court judge, one juvenile court judge, one justice court judge, one trial court
94 executive, one court clerk, one interpreter coordinator, one probation officer, one
95 prosecuting attorney, one defense attorney, two certified interpreters, one approved
96 interpreter, one expert in the field of linguistics, and one American Sign Language
97 representative.

98 (1)(B)(xi) The Guardian ad Litem Oversight Committee shall consist of seven
99 members with experience in the administration of law and public services selected from
100 public, private and non-profit organizations.

101 (1)(C) The Judicial Council shall designate the chair of standing committees.
102 Standing committees shall meet as necessary to accomplish their work but a minimum
103 of once every six months. Standing committees shall report to the Council as necessary
104 but a minimum of once every six months. Council members may not serve, participate
105 or vote on standing committees. Standing committees may invite participation by others
106 as they deem advisable, but only members designated by this rule may make motions
107 and vote. All members designated by this rule may make motions and vote unless
108 otherwise specified. Standing committees may form subcommittees as they deem
109 advisable.

110 (1)(D) Six months before the scheduled termination of a standing committee, the
111 Management Committee shall review the performance of the committee and make
112 recommendations to the Judicial Council regarding reauthorization. Unless reauthorized
113 by the Judicial Council, the committees shall terminate on the date indicated and every
114 six years thereafter.

115 (1)(D)(i) The Technology Committee shall terminate on June 30, 2006.

116 (1)(D)(ii) The Uniform Fine/Bail Schedule Committee shall terminate on June 30,
117 2006.

118 (1)(D)(iii) The Ethics Advisory Committee shall terminate on June 30, 2007.

119 (1)(D)(iv) The Justice Court Standards Committee shall terminate on June 30, 2008.

120 (1)(D)(v) The Judicial Branch Education Committee shall terminate on June 30,
121 2008.

122 (1)(D)(vi) The Court Facility Planning Committee shall terminate on June 30, 2009.

123 (1)(D)(vii) The Committee on Children and Family Law shall terminate on June 30,
124 2009.

125 (1)(D)(viii) The Committee on Judicial Outreach shall terminate on June 30, 2010.

126 (1)(D)(ix) The Committee on Resources for Self-represented Parties shall terminate
127 on June 30, 2010.

128 (1)(D)(x) The Court Interpreter Committee shall terminate on June 30, 2011.

129 (1)(D)(xi) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight
130 Committee, recognized by Section 78A-6-901, shall not terminate.

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

140 (3) General provisions.

141 (3)(A) Appointment process.

142 (3)(A)(i) Administrator's responsibilities. The state court administrator shall select a
143 member of the administrative staff to serve as the administrator for committee
144 appointments. Except as otherwise provided in this rule, the administrator shall:

145 (3)(A)(i)(a) announce expected vacancies on standing committees two months in
146 advance and announce vacancies on ad hoc committees in a timely manner;

147 (3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from
148 each prospective appointee and information regarding the prospective appointee's
149 present and past committee service;

150 (3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the
151 prospective reappointee, the length of the prospective reappointee's service on the
152 committee, the attendance record of the prospective reappointee, the prospective
153 reappointee's contributions to the committee, and the prospective reappointee's other
154 present and past committee assignments; and

155 (3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council
156 and report on recommendations received regarding the appointment of members and
157 chairs.

158 (3)(A)(ii) Council's responsibilities. The Council shall appoint the chair of each
159 committee. Whenever practical, appointments shall reflect geographical, gender,
160 cultural and ethnic diversity.

161 (3)(B) Terms. Except as otherwise provided in this rule, standing committee
162 members shall serve staggered three year terms. Standing committee members shall
163 not serve more than two consecutive terms on a committee unless the Council
164 determines that exceptional circumstances exist which justify service of more than two
165 consecutive terms.

166 (3)(C) Members of standing and ad hoc committees may receive reimbursement for
167 actual and necessary expenses incurred in the execution of their duties as committee
168 members.

169 (3)(D) The Administrative Office shall serve as secretariat to the Council's
170 committees.

171

1 **Rule 3-306. ~~Court interpreters~~ Language access in the courts.**

2 Intent:

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

6 To outline the procedure for certification, appointment, and payment of ~~court~~
7 interpreters for legal proceedings.

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

10 Applicability:

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

15 Statement of the Rule:

16 (1) Definitions.

17 (1)(A) "Appointing authority" means a judge, commissioner, referee or juvenile
18 probation officer, or delegate thereof.

19 (1)(B) "Approved interpreter" means a person who has been rated as "superior" in
20 ~~the Oral Proficiency Interview conducted by Language Testing International~~ testing and
21 has fulfilled the requirements established in paragraph (3).

22 (1)(C) "Certified interpreter" means a person who has successfully passed the
23 examination of the Consortium for Language Access in the Courts and has fulfilled the
24 requirements established in paragraph (3).

25 (1)(D) "Committee" means the ~~Court Interpreter~~ Language Access Committee
26 established by Rule 1-205.

27 (1)(E) "Conditionally-approved interpreter" means a person who, in the opinion of the
28 appointing authority after evaluating the totality of the circumstances, has language
29 skills, knowledge of interpreting techniques, and familiarity with interpreting sufficient to
30 interpret the legal proceeding. A conditionally approved interpreter shall read and is

31 bound by the Code of Professional Responsibility and shall subscribe the oath or
32 affirmation of a certified interpreter.

33 (1)(F) "Code of Professional Responsibility" means the Code of Professional
34 Responsibility for Court Interpreters set forth in Code of Judicial Administration
35 Appendix H. An interpreter may not be required to act contrary to law or the Code of
36 Professional Responsibility.

37 (1)(G) "Legal proceeding" means a proceeding before the appointing authority, court-
38 annexed mediation, communication with court staff, and participation in mandatory court
39 programs. Legal proceeding does not include communication outside the court unless
40 permitted by the appointing authority.

41 (1)(H) "Limited English proficiency" means the inability to understand or
42 communicate in English at the level of comprehension and expression needed to
43 participate effectively in legal proceedings.

44 (1)(I) "Registered interpreter I" means a person who interprets in a language in
45 which testing by the ~~Consortium for Language Access in the Courts or Language~~
46 ~~Testing International~~ is not available and who has fulfilled the requirements established
47 in paragraph (3) other than paragraph (3)(A)(v).

48 (1)(J) "Registered interpreter II" means a person who interprets in a language in
49 which testing by the ~~Consortium for Language Access in the Courts or Language~~
50 ~~Testing International~~ is available and who has fulfilled the requirements established in
51 paragraph (3) other than paragraph (3)(A)(v).

52 (1) (K) "Testing" means using an organization approved by the committee that uses
53 the American Council on the Teaching of Foreign Languages (ACTFL) scale.

54 (2) Court Interpreter Language Access Committee. The Court Interpreter Language
55 Access Committee shall:

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

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

60 (2)(C) discipline court interpreters.

61 (3) Application, training, testing, roster.

62 (3)(A) Subject to the availability of funding, and in consultation with the committee,
63 the administrative office of the courts shall establish programs to certify and approve
64 court interpreters in English and the non-English languages most frequently needed in
65 the courts. The administrative office shall publish a roster of certified, approved, and
66 registered interpreters ~~and a roster of approved interpreters~~. To be certified, ~~or approved~~
67 or registered, an applicant shall:

68 (3)(A)(i) file an application form approved by the administrative office;

69 (3)(A)(ii) pay a fee established by the Judicial Council;

70 (3)(A)(iii) pass a background check;

71 (3)(A)(iv) complete training as required by the administrative office;

72 (3)(A)(v) obtain a passing score on the court interpreter's test(s) as required by the
73 administrative office;

74 (3)(A)(vi) complete 10 hours observing a certified interpreter in a legal proceeding;
75 and

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

79 (3)(B) A person who is certified in good standing by the federal courts or by a state
80 having a certification program that is equivalent to the program established under this
81 rule may be certified without complying with paragraphs (3)(A)(iv) through (3)(A)(vii) but
82 shall pass an ethics examination and otherwise meet the requirements of this rule.

83 (3)(C) No later than December 31 of each even-numbered calendar year, certified,
84 and approved, and registered interpreters shall pass the background check for
85 applicants, and certified interpreters shall complete at least 16 hours of continuing
86 education approved by the administrative office of the courts.

87 (4) Appointment.

88 (4)(A) Except as provided in paragraphs (4)(B), (4)(C) and (4)(D), if the appointing
89 authority determines that a party, witness, victim or person who will be bound by the
90 legal proceeding has a primary language other than English and limited English

91 proficiency, the appointing authority shall appoint a certified interpreter in all legal
92 proceedings. A person requesting an interpreter is presumed to be a person of limited
93 English proficiency.

94 (4)(B) An approved interpreter may be appointed if no certified interpreter is
95 reasonably available.

96 (4)(C) A registered interpreter may be appointed if no certified or approved
97 interpreter is reasonably available.

98 (4)(D) A conditionally-approved interpreter may be appointed if the appointing
99 authority, after evaluating the totality of the circumstances, finds that:

100 (4)(D)(i) the prospective interpreter has language skills, knowledge of interpreting
101 techniques and familiarity with interpreting sufficient to interpret the legal proceeding;
102 and

103 (4)(D)(ii) appointment of the prospective interpreter does not present a real or
104 perceived conflict of interest or appearance of bias; and

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

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

116 ~~(4)(E)~~ (4)(F) No interpreter is needed for a direct verbal exchange between the
117 person and court staff if the court staff can fluently speak the language understood by
118 the person and the employee is acting within guidelines established in the Human
119 Resources Policies and Procedures. An approved, registered or conditionally approved

120 interpreter may be appointed if the court staff does not speak the language understood
121 by the person.

122 ~~(4)(F)~~ (4)(G) The appointing authority will appoint one interpreter for all participants
123 with limited English proficiency, unless the judge determines that the participants have
124 adverse interests, or that due process, confidentiality, the length of the legal proceeding
125 or other circumstances require that there be additional interpreters.

126 ~~(4)(G)~~ (4)(H) A person whose request for an interpreter has been denied may apply
127 to review the denial. The application shall be decided by the presiding judge. If there is
128 no presiding judge or if the presiding judge is unavailable, the clerk of the court shall
129 refer the application to any judge of the court or any judge of a court of equal
130 jurisdiction. The application must be filed within 20 days after the denial.

131 (5) Payment.

132 (5)(A) The ~~interpreter fees and expenses~~ for language access shall be paid by the
133 administrative office of the courts in courts of record and by the government that funds
134 the court in courts not of record. The court may assess the ~~interpreter fees and~~
135 expenses as costs to a party as otherwise provided by law. (Utah Constitution, Article I,
136 Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3,
137 78B-1-146(3), ~~and URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C.~~
138 2000d, et seq., and regulations and guidance adopted under that title.)

139 (5)(B) A person who has been ordered to pay ~~for an interpreter fees and expenses~~
140 for language access ~~after filing an affidavit of impecuniosity~~ may apply to the presiding
141 judge to review the order. If there is no presiding judge, the person may apply to any
142 judge of the court or any judge of a court of equal jurisdiction. The application must be
143 filed within 20 days after the ~~denial~~ order.

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

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

152 (8) Discipline.

153 (8)(A) An interpreter may be disciplined for:

154 (8)(A)(i) knowingly making a false interpretation in a legal proceeding;

155 (8)(A)(ii) knowingly disclosing confidential or privileged information obtained in a
156 legal proceeding;

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

159 (8)(A)(iv) failing to pass a background check;

160 (8)(A)(v) failing to meet continuing education requirements;

161 (8)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; and

162 (8)(A)(vii) failing to appear as scheduled without good cause.

163 (8)(B) Discipline may include:

164 (8)(B)(i) permanent loss of certified or approved credentials;

165 (8)(B)(ii) temporary loss of certified or approved credentials with conditions for
166 reinstatement;

167 (8)(B)(iii) suspension from the roster of certified or approved interpreters with
168 conditions for reinstatement;

169 (8)(B)(vi) prohibition from serving as a conditionally approved interpreter;

170 (8)(B)(v) suspension from serving as a conditionally approved interpreter with
171 conditions for reinstatement; and

172 (8)(B)(vi) reprimand.

173 ~~(8)(C) Any person may file a complaint in writing on a form provided by the program~~
174 ~~manager. The complaint may be in the native language of the complainant, which the~~
175 ~~AOC shall translate in accordance with this rule. The complaint shall describe in detail~~
176 ~~the incident and the alleged conduct or omission. The program manager may dismiss~~
177 ~~the complaint if it is plainly frivolous, insufficiently clear, or alleges conduct that does not~~

178 ~~violate this rule. If the complaint is not dismissed, the program manager shall mail the~~
179 ~~complaint to the interpreter at the address on file with the administrative office.~~

180 (9) Complaints.

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

184 (9)(B) The complaint shall allege an act or omission for which an interpreter can be
185 disciplined or that violates this rule. The complaint shall be in writing and signed and
186 filed with the program coordinator. The complaint may be in the native language of the
187 complainant, which the AOC shall translate in accordance with this rule. The complaint
188 shall describe the circumstances of the act or omission, including the date, time,
189 location and nature of the incident and the persons involved.

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

193 (9)(D) If the complaint alleges that the court did not provide language access as
194 required by this rule, the program coordinator shall investigate and recommend
195 corrective actions that are warranted.

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

199 ~~(8)(D)~~ (9)(E)(i) The interpreter shall answer the complaint within 30 days after the
200 date the complaint is mailed or the allegations in the complaint are ~~considered~~ deemed
201 true and correct. The answer shall admit, deny or further explain each allegation in the
202 complaint.

203 ~~(8)(E)~~ (9)(E)(ii) The program ~~manager~~ coordinator may review records and interview
204 the complainant, the interpreter and witnesses. After considering all factors, the program
205 ~~manager~~ coordinator may propose a resolution, which the interpreter may stipulate to.
206 The program ~~manager~~ coordinator may consider aggravating and mitigating
207 circumstances such as the severity of the violation, the repeated nature of violations,

208 the potential of the violation to harm a person's rights, the interpreter's work record,
209 prior discipline, and the effect on court operations.

210 ~~(8)(F)~~ (9)(E)(iii) If the complaint is not resolved by stipulation, the program ~~manager~~
211 coordinator will notify the committee, which shall hold a hearing. The committee chair
212 and at least one interpreter member must attend. If a committee member is the
213 complainant or the interpreter, the committee member is recused. The program
214 ~~manager~~ coordinator shall mail notice of the date, time and place of the hearing to the
215 interpreter. The hearing is closed to the public. Committee members and staff may not
216 disclose or discuss information or materials outside of the meeting except with others
217 who participated in the meeting or with a member of the Committee. The committee
218 may review records and interview the interpreter, the complainant and witnesses. A
219 record of the proceedings shall be maintained but is not public.

220 ~~(8)(G)~~ (9)(E)(iv) The committee shall decide whether there is sufficient evidence of
221 the alleged conduct or omission, whether the conduct or omission violates this rule, and
222 the discipline, if any. The chair shall issue a written decision on behalf of the committee
223 within 30 days after the hearing. The program ~~manager~~ coordinator shall mail a copy of
224 the decision to the interpreter.

225 ~~(8)(H)~~ (9)(E)(v) The interpreter may review and, upon payment of the required fee,
226 obtain a copy of any records to be used by the committee. The interpreter may attend
227 all of the hearing except the committee's deliberations. The interpreter may be
228 represented by counsel and shall be permitted to make a statement, call and interview
229 the complainant and witnesses, and comment on the claims and evidence. The
230 interpreter may obtain a copy of the record of the hearing upon payment of the required
231 fee.

232 ~~(8)(I)~~ (9)(E)(vi) If the interpreter is certified in Utah under Paragraph (3)(B), the
233 committee shall report the findings and sanction to the certification authority in the other
234 jurisdiction.

235 ~~(9)~~ (10) Fees.

236 ~~(9)(A)~~ (10)(A) In April of each year the Judicial Council shall set the fees and
237 expenses to be paid to interpreters during the following fiscal year by the courts of

238 record. Payment of fees and expenses shall be made in accordance with the Courts
239 Accounting Manual.

240 ~~(9)(B)~~ (10)(B) The local government that funds a court not of record shall set the
241 fees and expenses to be paid to interpreters by that court.

242 ~~(10)~~ (11) Translation of court forms. Forms must be translated by a team of at least
243 two people who are interpreters certified under this rule or translators accredited by the
244 American Translators Association.

245 ~~(11)~~ (12) Court employees as interpreters. A court employee may not interpret legal
246 proceedings except as follows.

247 ~~(11)(A)~~ (12)(A) A court may hire an employee ~~to be an~~ interpreter. The employee will
248 be paid the wages and benefits of the employee's grade and not the fee established by
249 this rule. If the language is a language for which certification in Utah is available, the
250 employee must be a certified interpreter. If the language is a language for which
251 certification in Utah is not available, the employee must be an approved interpreter. The
252 employee must meet the continuing education requirements of an employee, but at
253 least half of the minimum requirement must be in improving interpreting skills. The
254 employee is subject to the discipline process for court personnel, but the grounds for
255 discipline include those listed in this rule.

256 ~~(11)(B)~~ (12)(B) A state court employee employed as an interpreter has the rights and
257 responsibilities provided in the Utah state court human resource policies, including the
258 Code of Personal Conduct, and the Court Interpreters' Code of Professional
259 Responsibility also applies. A justice court employee employed as an interpreter has the
260 rights and responsibilities provided in the county or municipal human resource policies,
261 including any code of conduct, and the Court Interpreters' Code of Professional
262 Responsibility also applies.

263 ~~(11)(C)~~ (12)(C) A court may use an employee as a conditionally-approved interpreter
264 under paragraph (4)(C). The employee will be paid the wage and benefits of the
265 employee's grade and not the fee established by this rule.

266

1 **Rule 3-402. Human resources administration.**

2 Intent:

3 To establish guidelines for the administration of a human resources system for the
4 judiciary.

5 Applicability:

6 This rule shall apply to all state employees in the judicial branch.

7 Statement of the Rule:

8 (1) A department of human resources is established within the Administrative Office
9 to direct and coordinate the human resources activities of the judiciary.

10 (2) The department of human resources shall provide the necessary human
11 resources services to the judiciary in compliance with the state constitution, state statute
12 and this Code. The department of human resources shall keep all state employees in
13 the judicial branch informed of benefits, compensation, retirement and other human
14 resources related matters.

15 (3) The human resources policies and procedures for non-judicial employees:

16 (3)(A) shall include classification of exempt and non-exempt positions, guidelines
17 governing recruitment, selection, classification, compensation, working conditions,
18 grievances and other areas deemed necessary; and

19 (3)(B) shall be based upon the following merit principles:

20 (3)(B)(i) The recruitment, selection and promotion of employees is based on relative
21 ability, knowledge and skills, including open consideration of qualified applicants for
22 initial appointment.

23 (3)(B)(ii) A salary schedule which provides for equitable and adequate compensation
24 based upon studies conducted every three years of the salary levels of comparable
25 positions in both the public and private sector and available funds.

26 (3)(B)(iii) Employee retention on the basis of adequate performance. Where
27 appropriate, provision will be made for correcting inadequate performance and
28 separating employees whose inadequate performance cannot be corrected.

29 (3)(B)(iv) Fair treatment in all aspects of human resources administration without
30 regard to race, color, religion, sex, national origin, age, creed, disability, political

31 affiliation or other nonmerit factors and proper regard for employees' constitutional and
32 statutory rights as citizens.

33 (3)(B)(v) Notification to employees and an explanation of their political rights and
34 prohibited employment practices.

35 (4) The state court level administrator shall be responsible for the day-to-day
36 administration of the human resources system within that court level. A director of
37 human resources, appointed by the State Court Administrator, shall be responsible for
38 directing and coordinating the human resources activities of the human resources
39 system and will assist the state level administrators and court executives with human
40 resources related matters.

41 (5) Human resources policies and procedures and a Code of Ethics for non-judicial
42 employees shall be adopted by the Council in accordance with the rulemaking
43 provisions of this Code and shall be reviewed every three years.

44 (5)(A) There is established a human resources policy and procedure review
45 committee responsible for making and reviewing proposals for repealing human
46 resources policies and procedures and promulgating new and amended human
47 resources policies and procedures. The committee shall consist of:

48 (5)(A)(i) the director of human resources;

49 (5)(A)(ii) two trial court executives;

50 (5)(A)(iii) a district court clerk of court;

51 (5)(A)(iv) a juvenile court clerk of court;

52 (5)(A)(v) a probation supervisor from the juvenile court; and

53 (5)(A)(vi) an assistant clerk of court from the district court or circuit court.

54 (5)(B) The chair of the committee shall be designated by the director in consultation
55 with the state court administrator. Other members of the committee shall be appointed
56 in a manner consistent with Rule 1-205. The department of human resources shall
57 provide necessary support.

58 (5)(C) New and amended policies and procedures recommended by the committee
59 shall be reviewed by the court executives prior to being submitted to the Judicial

60 Council. The Court Executives may endorse or amend the draft policies and procedures
61 or return the draft policies and procedures to the committee for further consideration.

62 (6) A ~~career service review board~~ grievance review panel is established within the
63 grievance process to sit as a quasi-judicial body and review any action taken under the
64 authority of the judiciary's human resources procedures and which pertains to employee
65 promotions, dismissals, demotions, wages, salary, violations of human resources rules,
66 benefits, reductions in force and disciplinary actions.

67 (7) An official human resources file for each employee shall be maintained in the
68 Administrative Office and shall include the following records: leave records, education
69 records, biographical information, performance plans and appraisals, records of official
70 human resources action, records of official disciplinary action and supporting
71 documentation, letters of commendation, job applications and payroll and benefits
72 information.

73

1 **Rule 4-110. Transfer of juvenile traffic cases from ~~D~~district and ~~J~~justice**
2 **~~C~~courts to the ~~J~~juvenile ~~C~~court.**

3 Intent:

4 To establish criteria and procedures for transferring juvenile traffic cases from the
5 district and justice courts to the juvenile court ~~for post-judgment proceedings.~~

6 Applicability:

7 This rule applies to juvenile, district and justice courts.

8 Statement of the Rule:

9 (1) The justice court may transfer a criminal matter in which the defendant is a minor
10 to the juvenile court under Section 78A-7-106.

11 ~~(1) Juvenile traffic cases may be transferred from the~~ (2) The district and justice
12 courts may transfer a traffic matter in which the defendant is a minor to the juvenile
13 court for post-judgment proceedings if:

14 (2)(A) the case has been adjudicated, either by the entry of a guilty plea or by a trial
15 on the merits; and all of the following conditions exist;

16 ~~(2)(A) T~~ (2)(B) there is an outstanding fine or restitution obligation or a compensatory
17 service order; and

18 ~~(2)(B) R~~ (2)(C) reasonable collection efforts have been made, including the issuance
19 of an order to show cause or bench warrant; and

20 ~~(2)(C) A~~ (2)(D) an order has been issued to the State Driver's License Division
21 suspending the ~~juvenile's~~ minor's driver's license; and

22 ~~(2)(D) T~~ (2)(E) the juvenile ~~minor~~ is in contempt of the ~~district or justice~~ court.

23 ~~(2)(3)~~ (3) Fine revenue generated by the juvenile court in cases transferred for post-
24 judgment proceedings shall be ~~considered~~ is state revenue.

25 ~~(3)(4)~~ (4) Cases transferred from the district or justice court shall be accompanied by
26 an order of transfer and a mailing certificate verifying that a copy of the order was
27 mailed to the ~~juvenile~~ minor and, where available, to the ~~juvenile's~~ minor's parent,
28 guardian or custodian.

1 **Rule 4-404. Jury selection and service.**

2 Intent:

3 To identify the source lists from which the master jury list is built.

4 To establish a uniform procedure for jury selection, qualification, and service.

5 To establish administrative responsibility for jury selection.

6 To ensure that jurors are well informed of the purpose and nature of the obligations
7 of their service at each stage of the proceedings.

8 Applicability:

9 This rule shall apply to all trial courts.

10 Statement of the Rule:

11 (1) Master jury list and jury source lists; periodic review.

12 (1)(A) The state court administrator shall maintain for each county a master jury list
13 as defined by the Utah Code.

14 (1)(B) The master jury list for each county shall be a compilation of the following
15 source lists:

16 (1)(B)(i) driver licenses and identification cards for citizens of the United States 18
17 years of age and older from the Drivers License Division of the Department of Public
18 Safety; and

19 (1)(B)(ii) the official register of voters from the Elections Division of the Office of the
20 Lt. Governor.

21 (1)(C) The Judicial Council may use additional source lists to improve the
22 inclusiveness of the master jury list for a county.

23 (1)(D) At least twice per year the state court administrator shall obtain from the
24 person responsible for maintaining each source list a new edition of the list reflecting
25 any additions, deletions, and amendments to the list. The state court administrator shall
26 renew the master jury list for each county by incorporating the new or changed
27 information.

28 (1)(E) The master jury list shall contain the name, address, and date of birth for each
29 person listed and any other identifying or demographic information deemed necessary

30 by the state court administrator. The state court administrator shall maintain the master
31 list on a data base accessible to the district courts and justice courts of the state.

32 (1)(F) The state court administrator shall compare the number of persons on each
33 master jury list for a county with the population of the county 18 years of age and older
34 as reported by the Economic and Demographic Data Projections published for the year
35 by the Office of Planning and Budget. The state court administrator shall report the
36 comparison to the Judicial Council at its October meeting during even numbered years.
37 The sole purpose of this report is to improve, if necessary, the inclusiveness of the
38 master jury list.

39 (2) Term of service and term of availability of jurors.

40 (2)(A) The following shall constitute satisfactory completion of a term of service of a
41 juror:

42 (2)(A)(i) ~~service~~ servicing on a jury panel for one trial whether as a primary or alternate
43 juror regardless of whether the jury is called upon to deliberate or return a verdict;

44 (2)(A)(ii) reporting once to the courthouse for potential service as a juror;

45 (2)(A)(iii) complying with a summons as directed, even if not directed to report to the
46 courthouse; or

47 (2)(A)(iii) expiration of the term of availability.

48 (2)(B) The term of availability of jurors shall be as follows, unless a shorter term is
49 ordered by the court:

50 (2)(B)(i) one month for the trial courts of record in Salt Lake county;

51 (2)(B)(ii) three months for the trial courts of record in Davis, Utah, and Weber
52 counties; and

53 (2)(B)(iii) six months for all other courts ~~unless otherwise ordered by the court.~~

54 (3) Random selection procedures.

55 (3)(A) Random selection procedures shall be used in selecting persons from the
56 master jury list for the qualified jury list.

57 (3)(B) Courts may depart from the ~~principal~~ principle of random selection in order to
58 excuse or postpone a juror in accordance with statute or these rules and to remove
59 jurors challenged for cause or peremptorily.

60 (4) Qualified jury list.

61 (4)(A) For each term of availability as defined above, the state court administrator
62 shall provide, based on a random selection, to the court the number of jurors requested
63 by that court. This shall be the list from which the court qualifies prospective jurors. The
64 names of prospective jurors shall be delivered to the requesting court in the random
65 order in which they were selected from the master jury list. The court shall maintain that
66 random order through summons, assignment to panels, selection for voir dire,
67 peremptory challenges, and final call to serve as a juror; or the court may rerandomize
68 the names of jurors at any step.

69 (4)(B) For each term of availability the court should request no more than the
70 number of prospective jurors reasonably calculated to permit the selection of a full jury
71 panel with alternates if applicable for each trial scheduled or likely to be scheduled
72 during the term. The number of prospective jurors requested should be based upon the
73 size of the panel plus any alternates plus the total number of peremptory challenges
74 plus the anticipated number of prospective jurors to be postponed, excused from
75 service or removed for cause less the number of jurors postponed to that term.

76 (4)(C) The clerk of the court shall mail to each prospective juror a qualification form.
77 The prospective juror shall file the answers to the questions with the clerk within ten
78 days after it is received. The state court administrator shall develop a uniform form for
79 use by all courts. In addition to the information required by statute, the qualification form
80 shall contain information regarding the length of service, and procedures and grounds
81 for requesting an excuse or postponement.

82 (4)(D) If a prospective juror is unable to complete the answers, they may be
83 completed by another person. The person completing the answers shall indicate that
84 fact.

85 (4)(E) If the clerk determines that there is an omission, ambiguity, or error in the
86 answers, the clerk shall return the form to the prospective juror with instructions to make
87 the necessary addition, clarification, or correction and to file the answers with the clerk
88 within ten days after it is received.

89 (4)(F) The clerk shall review all answers and record the prospective juror as qualified
90 or disqualified as defined by statute.

91 (4)(G) The clerk shall notify the state court administrator of any determination that a
92 prospective juror is not qualified to serve as a juror, and the state court administrator
93 shall accordingly update the master jury list.

94 (4)(H) A prospective juror whose qualification form is returned by the United States
95 Postal Service as "undeliverable," or "moved - left no forwarding address," or
96 "addressee unknown," or other similar statement, shall not be pursued further by the
97 clerk. The clerk shall notify the state court administrator who shall accordingly update
98 the master jury list.

99 (4)(I) If a prospective juror fails to respond to the qualification questionnaire and the
100 form is not returned by the U.S. Postal Service as undeliverable, the clerk shall mail the
101 qualification form a second time with a notice that failure to answer the questions may
102 result in a court order requiring the prospective juror to appear in person before the
103 clerk to complete the qualification form. If a prospective juror fails to answer the
104 questions after the second mailing, the qualification form and a summons may be
105 delivered to the sheriff for personal service upon the prospective juror. The summons
106 shall require the prospective juror to answer the questions and file them with the court
107 within ten days or to appear before the clerk to prepare the form. Any prospective juror
108 who fails to answer the questions or to appear as ordered shall be subject to the
109 sanctions set forth in the Utah Code.

110 (5) Excuse or postponement from service.

111 (5)(A) No competent juror is exempt from service.

112 (5)(B) Persons on the qualified juror list may be excused from jury service, either
113 before or after summons, for undue hardship, public necessity or because the person is
114 incapable of jury service under the Utah Code. The court shall make reasonable
115 accommodations for any prospective juror with a disability. Excuse from jury service
116 satisfies the prospective juror's statutory service obligation.

117 (5)(C) A prospective juror may be postponed to later in the term or to a future term
118 for good cause.

119 (5)(D) Without more, being enrolled as a full or part-time post-high school student is
120 not sufficient grounds for excuse from service.

121 (5)(E) Disposition of a request for excuse from service or postponement may be
122 made by the judge presiding at the trial to which panel the prospective juror is assigned,
123 the presiding judge of the court, or the judge designated by the presiding judge for that
124 purpose. The presiding judge may establish written standards by which the clerk may
125 dispose of requests for excuse from service or postponement.

126 (6) Summons from the qualified jury list.

127 (6)(A) After consultation with the judges or the presiding judge of the court, the clerk
128 shall determine the number of jurors needed for a particular day. The number of
129 prospective jurors summoned should be based upon the number of panels, size of the
130 panels, any alternates, the total number of peremptory challenges plus the anticipated
131 number of prospective jurors to be postponed, excused from service or removed for
132 cause. The clerk shall summon the smallest number of prospective jurors reasonably
133 necessary to select a trial jury.

134 (6)(B) The judge may direct that additional jurors be summoned if, because of the
135 notoriety of the case or other exceptional circumstances, the judge anticipates
136 numerous challenges for cause.

137 (6)(C)(i) The summons may be by first class mail delivered to the address provided
138 on the juror qualification form or by telephone.

139 (6)(C)(ii) Mailed summonses shall be on a form approved by the state court
140 administrator. The summons may direct the prospective juror to appear at a date, time,
141 and place certain or may direct the prospective juror to telephone the court for further
142 information. The summons shall direct the prospective juror to present the summons for
143 payment. The summons may contain other information determined to be useful to a
144 prospective juror.

145 (6)(C)(iii) If summons is made by telephone, the clerk shall follow the procedures of
146 paragraph (9) of this rule.

147 (7) Assignment of qualified prospective jurors to panels. Qualified jurors may be
148 assigned to panels in the random order in which they appear on the qualified jury list or

149 may be selected in any other random order. If a prospective juror is removed from one
150 panel, that prospective juror may be reassigned to another panel if the need exists and
151 if there are no prospective jurors remaining unassigned.

152 (8) Selection of prospective jurors for voir dire. Qualified jurors may be selected for
153 voir dire in the random order in which they appear on the qualified jury list, or may be
154 selected in any other random order.

155 (9) Calling additional jurors. If there is an insufficient number of prospective jurors to
156 fill all jury panels, the judge shall direct the clerk to summon from the qualified jury list
157 such additional jurors as necessary. The clerk shall make every reasonable effort to
158 contact the prospective jurors in the order listed on the qualified jury list. If after
159 reasonable efforts the clerk fails to contact a juror, the clerk shall attempt to contact the
160 next juror on the list. If the clerk is unable to obtain a sufficient number of jurors in a
161 reasonable period of time, the court may use any lawful method for acquiring a jury.

162

1 **Rule 4-508. Guidelines for ruling on a motion to waive fees.**

2 Intent:

3 To promote statewide consistency in deciding motions to waive fees in civil cases
4 and in the expungement of criminal records in which the moving party is not a prisoner.

5 To promote statewide consistency in deciding motions to waive fees in juvenile court
6 cases in which the moving party is not a prisoner.

7 Nothing in this rule should be interpreted as limiting the discretion of the judge to
8 decide a motion to waive fees.

9 Applicability:

10 This rule applies to all civil and small claims cases and in the expungement of
11 criminal records in which the moving party is not a prisoner.

12 This rule applies to all juvenile court cases in which the moving party is not a
13 prisoner.

14 As used in this rule “fee waiver” and similar phrases include waiving the fee in full or
15 in part, as may be ordered by the judge.

16 Statement of the Rule:

17 (1) The moving party must complete a motion to waive fees and a financial affidavit
18 approved by the Board of District Court Judges or, in the juvenile court, by the Board of
19 Juvenile Court Judges. The moving party must provide supporting documentation of the
20 claims made in the affidavit. In juvenile court, the minor or a minor’s parent, guardian or
21 authorized representative may move to waive fees.

22 (2) Upon the filing of a motion to waive fees and financial affidavit, the court, sheriff
23 or any other provider of a service offered by or through a government entity shall do
24 what is necessary and proper as promptly as if the fee had been fully paid.

25 (3) A motion to waive fees may be decided without notice to the other parties,
26 requires no response, request to submit for decision or hearing. The court will review
27 the affidavit and make an independent determination whether the fee should be waived.
28 The court should apply a common sense standard to the information and evaluate
29 whether the information is complete, consistent and true. Section 78A-2-304 requires a

30 party to pay a full or partial fee if the financial affidavit and any further questioning
31 demonstrate the party is reasonably able to pay a fee.

32 (4) In general, a party is reasonably able to pay a fee if:

33 (4)(A) gross monthly income exceeds 100% of the poverty guidelines updated
34 periodically in the Federal Register by the U.S. Department of Health and Human
35 Services under the authority of 42 U.S.C. 9902(2).

36 (4)(B) the moving party has liquid assets that can be used to pay the fee without
37 harming the party's financial position;

38 (4)(C) the moving party has credit that can be used to pay the fee without harming
39 the party's financial position;

40 (4)(D) the moving party has assets that can be liquidated or borrowed against
41 without harming the party's financial position;

42 (4)(E) expenses are less than net income;

43 (4)(F) Section 30-3-3 applies and the court orders another party to pay the fee of the
44 moving party; or

45 (4)(G) in the judge's discretion, the moving party is reasonably able to pay some part
46 of the fee.

47 (5) If the moving party is represented by private counsel, the motion to waive fees
48 may be granted in proportion to the attorney's discount of the attorney fee. The moving
49 party's attorney must provide an affidavit describing the fee agreement and what
50 percentage of the attorney's normal, full fee is represented by the discounted fee.

51 (6) A motion to waive fees should be ruled upon within ten days after being filed.

52 (6)(A) If the fee is fully waived, the court, sheriff or any other provider of a service
53 offered by or through a government entity shall do what is necessary and proper as
54 promptly as if the fee had been fully paid.

55 (6)(B) If the fee is not fully waived, the court, sheriff or any other provider of a service
56 offered by or through a government entity may require payment of the fee before doing
57 what is necessary and proper. If the service has already been performed, the court,
58 sheriff or service provider may do what is necessary and proper to collect the fee,
59 including dismissal of the case.

60 (6)(C) If the fee is not fully waived, the court shall notify the party in writing of the fee
61 amount, the procedure to challenge the fee; the consequences of failing to pay the fee.

62 (6)(D) If the motion is rejected because of a technical error, such as failure to
63 complete a form correctly or to attach supporting documentation, the court shall notify
64 the moving party, and the moving party may file a corrected motion and affidavit within
65 14 days after being notified of the decision.

66 (7) In addition to any statutory remedies, an order granting a fee waiver may be
67 reviewed at any time if the court has jurisdiction of the case. If the court determines,
68 after waiving a fee, that the moving party is reasonably able to pay the fee, including
69 from the proceeds of a judgment, the court may modify its previous order. The court
70 may allocate the fee among the parties under Utah Rule of Civil Procedure 54, Utah
71 Code Section 30-3-3, or as otherwise provided by law.

72