

Agenda

Utah Judicial Council's Standing Committee on Resources for Self-represented Parties

August 12, 2022
12:00 p.m.-2:00 p.m.

Via Webex: <https://utcourts.webex.com/meet/nathanaelp>

Welcome and review of agenda	Judge Rich Mrazik
Quick check in with everyone re: updates/challenges	Judge Rich Mrazik
Approval of June minutes - Tab 1	Judge Rich Mrazik
Discussion of remote hearings	Nancy Sylvester
Review roles - Tab 2 SHC staff attorneys Library assistants JAs Navigators	Nathanael Player with help from the full group
Review requirements for credentialing interpreters CJA 3-306.04 describes interpreter credentialing Certified interpreters must: <ul style="list-style-type: none"> • Take a written English test • Take a test on the interpreter code of responsibility • Attend a two day orientation • Complete a background check • Fulfill 10 hours of observation • Complete a five day training course • Pass a three part examination on modes of interpretation https://www.utcourts.gov/resources/interp/faq.html	Nathanael Player
Review CJA 14-802(d) and discussion - Tab 3	Nathanael Player / all
Unanswered questions from last time: <ul style="list-style-type: none"> • Should navigators be certified or have on the job training or something else? 	All

<ul style="list-style-type: none">• Should navigators be associated with the courts or should they be independent?• Should the focus of navigators be to make our jobs easier as court/court-adjacent workers or should focus on making things easier for the public?• How do navigators work with court kiosks and, assuming we could set it up, who should be attending to questions coming from kiosks?	
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Self-Rep Committee meeting schedule: second Friday of every other month at noon

October 14, 2022

December 9, 2022

TAB 1

**MINUTES for Utah Judicial Council’s Standing Committee
on Resources for Self-Represented Parties Summary**

Via Webex
June 10, 2022
12:00 PM – 2:00 PM

Name	Position	Attended	Excused
Honorable Rich Mrazik	District court judge and chair		X
Honorable Ann Marie Mciff Allen	District court judge	X	
Honorable Annette Jan	Juvenile court judge	X	
Honorable Katherine Peters	Justice court judge		
Honorable Danalee Welch-O’Donnal	Justice court judge	X	
Nicole Gray	Appellate clerk of court	X	
Shannon Treseder	Urban clerk of court	X	
Janet Thorpe	Rural clerk of court		
Nathanael Player	Self-Help Center representative		X
Charles Stormont	Utah State Bar		
Peter Strand	Legal services organiation that serves low-income clients	X	
Marcus Degen	Legal services organiation that serves low-income clients	X	
Alison Satterlee	Private attorney		
Professor Leslie Francis	Law school representative		X
Professor Beth Jennings	Law school representative	X	
Kaden Taylor	State law librarian	X	
Shawn Newell	Community representative		
Brooke Robinson	Community representative	X	
Amy Hernandez	Ex Officio Domestic Violence Coordinator		
Kara Mann	Ex Officio Language Access Coordinator		
Pamela Beatse	Ex Officio Utah State Bar Access to Justice Office		
Nancy Sylvester	Guest – Utah State Bar	X	
Sandra Carpaio	Guest – Utah 2-1-1		
Nini Rich	Guest facilitator		
Valeria Jimenez	Guest – OFA	X	
Keri Sargent	Guest – District Court Admin.		
Whitney Stephens	Guest – Utah 2-1-1		
Alyssa Craven	Guest – Grandfamilies		

Yehemy Zavala Orozco	Guest	X	
Rhiana Medina	Guest	X	

1. Brooke Motions to approve the minutes. Judge Jan seconds. Minutes approved.

2. Rhiana Medina: She explains that they use our website often. She uses OCAP a lot and the calendars are important.

The Moab Valley Multicultural Center: She feels it would be good to have standards for court navigators. She thinks having a certification or similar process for navigators can help. She has also introduced this idea to the Access to Justice committee, where she is a new member.

What they do: When someone comes in that is involved in a court process, they determine to what degree they need assistance. Some people just need to be directed to a resource, others need more involved help. They can track their court cases (make sure they are meeting their obligations, paying fees, etc.). They will often go to court with people and see if they understand what is happening in the courtroom. They make sure they know how to ask questions if they do not understand something.

They borrowed a lot of their structure from Immigration Legal Services’s model. They have an attorney that oversees their services to make sure they stay within their scope and understand the ever changing laws.

Needs for Support: Standards to guide them, something similar to the language certificates. Nancy Sylvester suggests looking at the Language Access program as a model for this.

3. Yehemy Zavala Orozco, Utah Housing Coalition, community health workers

They have identified that most of their community do not understand eviction or expungement processes. She works with people from communities and organizations that work with communities. They confirm with other organizations such as Legal Aid that the information they provide is correct. They are not attorneys. They also guide people to understand what they need to do. They also connect people to services.

They have worked with Comunidades Unidas and have seen how their community navigators work with people on immigration services.

Most of their outreach is through word of mouth.

Ways we can support: Having these conversations with these groups and being in contact is a great first step. Their office number is 801-364-0077.

When she prepares material for training she asks organizations such as People’s Legal Aid, Utah Legal Aid to ensure her information is correct.

4. Beth Jennings: Shared demo video of their online concierge service. Librarians are assigned times to staff the zoom account. She feels this could work well for the courts. You do not need to be in the court to help. You can serve multiple different locations, or have more than one person working at a time. They have discontinued some services such as chat because this worked so well. Having this in zoom could allow you to share your screen to show a map, etc.

They have had this service for about a year. It started with COVID as a way to reduce face-to-face interactions. It has been so successful, though, that they are likely going to keep it. One way this could be helpful is if we are able to print documents to whatever courthouse the person is contacting us from.

Drawbacks include forgetting to log in to the platform at the start of their shift. Another drawback can be language, as in someone speaking a language other than English.

5. Next Steps Regarding Navigators:

- Do we want this to be a primarily virtual service?
 - One benefit is one person can staff multiple courthouses.
 - It may help to avoid bouncing people around.
 - You may be able to access the court navigator at home.
 - For those at home, should they instead be directed to still use Self-Help Center?
 - A drawback of this revolves around people who are unfamiliar with computers or other technology and may not be comfortable using this technology or know how.
 - Would we need to set up kiosks to do this? Would it be more than a laptop set up on a computer? What would the cost of setup be? Can we use the Webex kiosks?
- What would be the responsibility of Self-Help Center versus a court navigator?
 - We should have some sort of triage. Services like the court navigator and COURTney (the court chatbot) would help with more basic questions and free up the SHC for more difficult or complex issues.
- Guidelines for what a navigator should be doing/helping with.
 - Define what roles a court-provided navigator can and cannot do (we likely cannot provide a court navigator that would attend court with one party).
- Certifications
 - Should we talk with the Language Access department about their rules and policies?
 - Should there be a required certification for navigators?
 - On one hand, we should try to not limit access to being a navigator
 - The goalposts do move in these types of issues. A certification could require that someone remain up-to-date on any changes.
 - Training provides a standard set of information everyone has.
 - Certification should not be required before applying for the job. It can be an on-the-job training.

- First steps: Define what the court navigator role would be (such as in regards to Self-Help Center) and look into use of court kiosks.

Self-Rep Committee meeting schedule – every other month at noon.

October 14, 2022

December 9, 2022

TAB 2

SHC staff attorneys

- Answer questions of self-represented litigants via phone, text, and email
- Provide forms, links to self-help pages, OCAP and specific legal referrals
- Help with any legal issue that is state law in nature
- Help at any procedural point (initiation to appeal)
- Provide customized and specific legal information – can include:
 - Detailing the next procedural step in a case
 - Listing legal options
- Encourage people to take the next procedural step and then contact us again with more questions at the following step
- No advice

What this looks like

- Help with basic questions (how do I get divorced?)
- Drafting documents after a hearing if someone is unable to do so themselves
- Help with complex procedural issues (how do I move forward with my case?)
- Help people articulate their basic question into something specific that can be answered with legal information (My neighbor's tree is messing up my property; we ask "what do you want the court to do?")

Law library assistants

- Answer questions of library patrons (most of whom are self-represented) in-person and online
- Provide forms and general legal referrals
- Help with OCAP
- Help with common legal issues
- Help with most common procedural issues
- Provide general information
- Encourage people to return
- No advice

What this looks like

- Help with basic questions
- Printing forms for common issues
- Answering basic legal questions and referring to general resources or the SHC as needed

JAs

- JAs should be able to do everything law library assistants do
- JAs at the front counter at busy court locations may not have the capacity to provide thorough assistance

Navigators (as described by Rhiana and Yehemy)

- Provide trusted, community-based reassurance regarding legal processes
- Check people's understanding regarding what needs to happen and what has happened in a case
- After court, help people understand their legal obligations
- Ensure people know how to ask questions and they understand their rights
- Empower people to understand their options
- Help connect to services that feel foreign
- Train on new legal processes (like eviction expungement)
- Work with other trusted entities like community health workers

What this looks like

- Helping people in juvenile court and working with DCFS
- Helping people after criminal cases understand sentencing and requirements for compliance with sentence
- Explaining how to access legal resources like the courts' self-help resources, OCAP, the SHC, and other legal resources like ULS

	Before matter comes to court	Matter in court	After matter resolved in court
SHC involvement	<p>Minimal – people don't know they have a legal issue</p> <p>Once they suspect they have a legal issue they contact SHC for help/guidance</p>	High – people need help understanding legal processes and requirements	Minimal – SHC can explain legal obligations
JA involvement	Nonexistent	High – people need help understanding legal processes and requirements	Nonexistent
Navigator involvement	High – people contact trusted community partners for help with problems – navigators help people understand those issues are legal in nature	Moderate – navigators are uncertain of their role and how much they can/should help	High – navigators help people understand their obligations and help with tracking compliance

TAB 3

Utah Courts

UCJA Rule 14-802 (Code of Judicial Administration)

Rule 14-802. Authorization to practice law.

Rule printed on August 11, 2022 at 10:52 pm. Go to <https://www.utcourts.gov/rules> for current rules.

Effective: 5/1/2022

(a) **Application.** Except as set forth in paragraphs (c) and (d), only persons who are active, licensed Bar members in good standing may engage in the practice of law in Utah.

(b) **Definitions.** For purposes of this rule:

(1) “Practice of law” means representing the interests of another person by informing, counseling, advising, assisting, advocating for, or drafting documents for that person through applying the law and associated legal principles to that person’s facts and circumstances.

(2) “Law” means the collective body of declarations by governmental authorities that establish a person’s rights, duties, constraints, and freedoms and includes:

(A) constitutional provisions, treaties, statutes, ordinances, rules, regulations, and similarly enacted declarations; and

(B) decisions, orders, and deliberations of adjudicative, legislative, and executive bodies of government that have authority to interpret, prescribe, and determine a person’s rights, duties, constraints, and freedoms.

(3) “Person” includes the plural as well as the singular and legal entities as well as natural persons.

(c) **Licensed Paralegal Practitioners.** A person may be licensed to engage in the limited practice of law in the area or areas of (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, custody and support, name or gender change, and petitions to recognize a relationship as a marriage; (2) forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

(1) Within a practice area or areas in which a Licensed Paralegal Practitioner is licensed, a Licensed Paralegal Practitioner who is in good standing may represent the interests of a natural person who is not represented by a lawyer unaffiliated with the Licensed Paralegal Practitioner by:

- (A) establishing a contractual relationship with the client;
- (B) interviewing the client to understand the client's objectives and obtaining facts relevant to achieving that objective;
- (C) completing forms approved by the Judicial Council;
- (D) informing, counseling, advising, and assisting in determining which form to use and giving advice on how to complete the form;
- (E) signing, filing, and completing service of the form;
- (F) obtaining, explaining, and filing any document needed to support the form;
- (G) reviewing documents of another party and explaining them;
- (H) informing, counseling, assisting and advocating for a client in mediated negotiations;
- (I) filling in, signing, filing, and completing service of a written settlement agreement form in conformity with the negotiated agreement;
- (J) communicating with another party or the party's representative regarding the relevant form and matters reasonably related thereto; and
- (K) explaining a court order that affects the client's rights and obligations.
- (L) standing or sitting with the client during a proceeding to provide emotional support, answering factual questions as needed that are addressed to the client by the court or opposing counsel, taking notes, and assisting the client to understand the proceeding and relevant orders.

(d) **Exceptions and Exclusions.** Whether or not it constitutes the practice of law, the following activity by a nonlawyer, who is not otherwise claiming to be a lawyer or to be able to practice law, is permitted:

- (1) Making legal forms available to the general public, whether by sale or otherwise, or publishing legal self-help information by print or electronic media.
- (2) Providing general legal information, opinions, or recommendations about possible legal rights, remedies, defenses, procedures, options, or strategies, but not specific advice related to another person's facts or circumstances.
- (3) Providing clerical assistance to another to complete a form provided by a municipal, state, or federal court located in Utah when no fee is charged to do so.
- (4) When expressly permitted by the court after having found it clearly to be in the best interests of the child or ward, assisting one's minor child or ward in a juvenile court proceeding.
- (5) Representing a party in small claims court as permitted by Rule of Small Claims Procedure 13.
- (6) Representing without compensation a natural person or representing a legal entity as an employee representative of that entity in an arbitration proceeding, where the amount in controversy does not exceed the jurisdictional limit of the small claims court set by the Utah Legislature.
- (7) Representing a party in any mediation proceeding.
- (8) Acting as a representative before administrative tribunals or agencies as authorized by tribunal or agency rule or practice.
- (9) Serving in a neutral capacity as a mediator, arbitrator, or conciliator.
- (10) Participating in labor negotiations, arbitrations, or conciliations arising under collective bargaining rights or agreements or as otherwise allowed by law.
- (11) Lobbying governmental bodies as an agent or representative of others.
- (12) Advising or preparing documents for others in the following described circumstances and by the following described persons:

(A) A real estate agent or broker licensed in Utah may complete state-approved forms including sales and associated contracts directly related to the sale of real estate and personal property for their customers.

(B) An abstractor or title insurance agent licensed in Utah may issue real estate title opinions and title reports and prepare deeds for customers.

(C) Financial institutions and securities brokers and dealers licensed in Utah may inform customers with respect to their options for titles of securities, bank accounts, annuities, and other investments.

(D) Insurance companies and agents licensed in Utah may recommend coverage, inform customers with respect to their options for titling of ownership of insurance and annuity contracts, the naming of beneficiaries, and the adjustment of claims under the company's insurance coverage outside of litigation.

(E) Health care providers may provide clerical assistance to patients in completing and executing durable powers of attorney for health care and natural death declarations when no fee is charged to do so.

(F) Certified Public Accountants, enrolled IRS agents, public accountants, public bookkeepers, and tax preparers may prepare tax returns.

(13) Representing an Indian tribe that has formally intervened in a proceeding subject to the Indian Child Welfare Act of 1978, 25 U.S.C. sections 1901–63. Before a nonlawyer may represent a tribe, the tribe must designate the nonlawyer representative by filing a written authorization. If the tribe changes its designated representative or if the representative withdraws, the tribe must file a written substitution of representation or withdrawal.

(14) Providing legal services under Utah Supreme Court Standing Order No. 15.

Advisory Committee Comment:

Paragraph (a).

“Active” in this paragraph refers to the formal status of a lawyer, as determined by the Bar. Among other things, an active lawyer must comply with the Bar's requirements for continuing legal education.

Paragraph (b).

The practice of law defined in paragraph (b)(1) includes: giving advice or counsel to another person as to that person's legal rights or responsibilities with respect to that person's facts and circumstances; selecting, drafting, or completing legal documents that affect the legal rights or responsibilities of another person; representing another person before an adjudicative, legislative, or executive body, including preparing or filing documents and conducting discovery; and negotiating legal rights or responsibilities on behalf of another person.

Because representing oneself does not involve another person, it is not technically the “practice of law.” Thus, any natural person may represent oneself as an individual in any legal context. To the same effect is Article 1, Rule 14-111 Integration and Management: “Nothing in this article shall prohibit a person who is unlicensed as an attorney at law or a foreign legal consultant from personally representing that person’s own interests in a cause to which the person is a party in his or her own right and not as assignee.”

Similarly, an employee of a business entity is not engaged in “the representation of the interest of another person” when activities involving the law are a part of the employee’s duties solely in connection with the internal business operations of the entity and do not involve providing legal advice to another person. Further, a person acting in an official capacity as an employee of a government agency that has administrative authority to determine the rights of persons under the law is also not representing the interests of another person.

As defined in paragraph (b)(2), “the law” is a comprehensive term that includes not only the black-letter law set forth in constitutions, treaties, statutes, ordinances, administrative and court rules and regulations, and similar enactments of governmental authorities, but the entire fabric of its development, enforcement, application, and interpretation.

Laws duly enacted by the electorate by initiative and referendum under constitutional authority are included under paragraph (b)(2)(A).

Paragraph (b)(2)(B) is intended to incorporate the breadth of decisional law, as well as the background, such as committee hearings, floor discussions, and other legislative history, that often accompanies the written law of legislatures and other law- and rule-making bodies. Reference to adjudicative bodies in this paragraph includes courts and similar tribunals, arbitrators, administrative agencies, and other bodies that render judgments or opinions involving a person’s interests.

Paragraph (c).

The exceptions for Licensed Paralegal Practitioners arise from the November 18, 2015 Report and Recommendation of the Utah Supreme Court Task Force to Examine Limited Legal Licensing. The Task Force was created to make recommendations to address the large number of litigants who are unrepresented or forgo access to the Utah judicial system because of the high cost of retaining a lawyer. The Task Force recommended that the Utah Supreme Court exercise its constitutional authority to govern the practice of law to create a subset of discreet legal services in the practice areas of: (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking, and custody and support; (2) unlawful detainer and forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases. The Task Force determined that these three practice areas have the highest number of unrepresented litigants in need of low-cost legal assistance. Based on the Task Force’s recommendations, the Utah Supreme Court authorized Licensed Paralegal Practitioners to provide limited legal services as prescribed in this rule and in accordance with the Supreme Court Rules of Professional Practice.

Paragraph (c)(1)(E).

A Licensed Paralegal Practitioner may complete forms that are approved by the Judicial Council and that are related to the limited scope of practice of law described in paragraph (c). The Judicial Council approves forms for the Online Consumer Assistance Program and for use by the public. The forms approved by the Judicial Council may be found at <https://www.utcourts.gov/ocap/> and <https://www.utcourts.gov/selfhelp/>.

Paragraph (d).

To the extent not already addressed by the requirement that the practice of law involves the representation of others, paragraph (d)(2) permits the direct and indirect dissemination of legal information in an educational context, such as legal teaching and lectures.

Paragraph (d)(3) permits assistance provided by employees of the courts and legal-aid and similar organizations that do not charge for providing these services.

Paragraph (d)(7) applies only to the procedures directly related to parties' involvement before a neutral third-party mediator; it does not extend to any related judicial proceedings unless otherwise provided for under this rule (e.g., under paragraph (d)(5)).

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