

1 **Rule 4-409. Council Approval of Problem Solving Courts.**

2 **Intent:**

3 To establish criteria for the creation and operation of problem solving courts, and to create a
4 process for ongoing reporting from and evaluation of problem solving courts.

5 **Applicability:**

6 This rule applies to all trial courts.

7 **Statement of the Rule:**

8 (1) **Definitions.**

9 (1)(A) Applicant. As used in this rule, an applicant is the problem solving court judge,
10 court executive, or other representative of the problem solving court as
11 designated by the problem solving court judge.

12 (1)(B) Problem solving court. As used in ~~these~~this rules, a problem solving court is a
13 targeted calendar of similar type cases that uses a collaborative approach
14 involving the court, treatment providers, case management, frequent testing or
15 monitoring and ongoing judicial supervision. Examples include drug courts,
16 mental health courts and domestic violence courts.

17 (2) **Initial application.** Prior to beginning operations, each proposed problem solving court
18 must be approved by the Judicial Council and must agree to comply with ~~any published~~
19 ~~standards~~ the requirements of this rule. An application packet, approved by the Judicial
20 Council, shall be made available by the Administrative Office of the Courts. This packet
21 must be submitted to the Council for approval by the applicant at least 90 days in advance
22 of the proposed operation of a new court.

23 (3) **Annual Report.** Existing problem solving courts must annually submit a completed annual
24 report on a form provided by the Administrative Office of the Courts.

25 (3)(A) Each problem solving court shall annually report at least the following:

26 (3)(A)(i) The number of participants admitted in the most recent year;

27 (3)(A)(ii) The number of participants removed in the most recent year;

28 (3)(A)(iii) The number of participants that graduated or completed the program
29 in the most recent year; and

30 (3)(A)(iv) Recidivism and relapse statistics for as long a period of time as is
31 available, but at least for one year. If the court has been in existence

32 | for less than one year, then for the amount of time the court has been
33 | in existence.

- 34 | (4) **Grants.** In addition to complying with the requirements of CJA Rule 3-411, an applicant
35 | shall notify the Judicial Council of any application for funds to operate a problem solving
36 | court, whether or not the court would be the direct recipient of the grant. This notification
37 | should be made before any application for funding is initiated.

- 38 | ~~(5) **Requirements to Operate a Problem Solving Court. Operation of the problem**~~
39 | ~~**solving court.**~~ All problem solving courts ~~must~~ shall be required to adhere to the following
40 | requirements, unless specifically waived by the Judicial Council:

41 | (5)(A) Each problem solving court must adhere to the "Required Certification Criteria"
42 | outlined in the respective Certification Checklist applicable to that problem
43 | solving court, as promulgated and amended and approved by the Judicial
44 | Council.

45 | (5)(B) Each problem solving court must adhere to the "Presumed Certification Criteria"
46 | outlined in the respective Certification Checklist applicable to that problem
47 | solving court, as promulgated and amended and approved by the Judicial
48 | Council, unless:

49 | (5)(B)(i) the program can show sufficient compensating measures; or

50 | (5)(B)(ii) the Judicial Council specifically waives that requirement.

51 | ~~(4)(A)~~ (5)(C) To commence participation in a problem solving court:

52 | ~~(4)(A)(i)~~ (5)(C)(i) In a criminal proceeding, a plea must be entered before a
53 | person may participate in the court. Testing and orientation processes
54 | may be initiated prior to the plea, but no sanctions may be imposed
55 | until the plea is entered other than those which may be imposed in a
56 | criminal proceeding in which a person is released before trial. Prior to
57 | the acceptance of the plea, each participant must sign an agreement
58 | that outlines the expectations of the court and the responsibilities of
59 | the participant.

60 | ~~(4)(A)(ii)~~ (5)(C)(ii) In juvenile dependency drug court, sanctions may not be
61 | imposed until the parent has signed an agreement that outlines the
62 | expectations of the court and the responsibilities of the participant.

63 | ~~(4)(B) Eligibility criteria must be written, and must include an assessment process that~~
64 | ~~measures levels of addiction, criminality, and/or other appropriate criteria as a~~
65 | ~~part of determining eligibility.~~

66 ~~(4)(C) The frequency of participation in judicial reviews will be based on the findings of~~
67 ~~the assessments. In rural areas, some allowance may be made for other~~
68 ~~appearances or administrative reviews when the judge is unavailable. Otherwise,~~
69 ~~judicial reviews should be conducted by the same judge each time.~~

70 ~~(4)(D) Compliance testing must be conducted pursuant to a written testing protocol that~~
71 ~~ensures reliability of the test results.~~

72 ~~(4)(E) Treatment must be provided by appropriately licensed or certified providers, as~~
73 ~~required by the Department of Human Services or other relevant licensure or~~
74 ~~certification entity.~~

75 ~~(4)(F) Each problem solving court must have written policies and procedures that~~
76 ~~ensure confidentiality and security of participant information. These policies and~~
77 ~~procedures must conform to applicable state and federal laws, including the~~
78 ~~Government Records and Access Management Act, HIPAA, and 42 CFR 2.~~

79 ~~(4)(G) Any fees assessed by the court must be pursuant to a fee schedule, must be~~
80 ~~disclosed to each participant and must be reasonably related to the costs of~~
81 ~~testing or other services.~~

82 ~~(4)(H) Courts must conduct a staffing before each court session. At a minimum, the~~
83 ~~judge, a representative from treatment, prosecutor, defense attorney, and in~~
84 ~~dependency drug court a guardian ad litem, must be present at each court~~
85 ~~staffing.~~

86 ~~(4)(I) At a minimum, the judge, a representative from treatment, prosecutor, defense~~
87 ~~attorney, and in dependency drug court a guardian ad litem, must be present at~~
88 ~~each court session.~~

89 ~~(4)(J) Each court must be certified by the Judicial Council every two years. Certification~~
90 ~~requires all courts to meet the minimum requirements stated in this rule.~~

91 (6) **Certification.** Each problem solving court must be considered for certification by the
92 Judicial Council every two years. Each problem solving court shall cooperate with the
93 Judicial Council's certification review process.

94 (6)(A) Upon review, the Judicial Council may:

95 (6)(A)(i) certify a problem solving court that adheres to all requirements as
96 outlined in subsection (5) of this rule;

97 (6)(A)(ii) de-certify a problem solving court that fails to adhere to one or more
98 requirements as outlined in subsection (5) of this rule; or

- 99 (6)(A)(iii) conditionally certify a problem solving court that fails to adhere to one
100 or more requirements as outlined in subsection (5) of this rule.
- 101 (6)(B) To de-certify or conditionally certify a problem solving court, the Judicial Council
102 shall:
- 103 (6)(B)(i) inform the problem solving court of the requirement(s) that are not
104 being adequately met; and
- 105 (6)(B)(ii) provide to the problem solving court an opportunity to respond
106 regarding the requirement(s) that are not being adequately met.
- 107 (6)(C) In the event that the Judicial Council determines that the problem solving court
108 should be conditionally certified, the Judicial Council shall:
- 109 (6)(C)(i) outline specific conditions necessary for the problem solving court to
110 meet in order to be certified; and
- 111 (6)(C)(ii) provide the problem solving court with a specific period of time in
112 which to remedy any such deficiency.
- 113 (6)(D) In the event that a conditionally certified problem solving court fails to meet the
114 conditions outlined by the Judicial Council within the time allotted, the Judicial
115 Council:
- 116 (6)(D)(i) shall de-certify the problem solving court; or
117 (6)(D)(ii) may extend the period of time to remedy any deficiency, for good
118 cause shown.
- 119 ~~(5) Evaluation and Reporting Requirements. Each problem solving court shall annually report~~
120 ~~at least the following:~~
- 121 ~~(5)(A) The number of participants admitted in the most recent year;~~
- 122 ~~(5)(B) The number of participants removed in the most recent year;~~
- 123 ~~(5)(C) The number of participants that graduated or completed the program in the most~~
124 ~~recent year; and~~
- 125 ~~(5)(D) Recidivism and relapse statistics for as long a period of time as is available, but~~
126 ~~at least for one year. If the court has been in existence for less than one year,~~
127 ~~then for the amount of time the court has been in existence.~~
- 128 ~~(6)(7) DUI Courts.~~ The following courts are approved as DUI Courts: Riverdale Justice Court
129 and other courts as may be approved by the Judicial Council in the future.
- 130 ~~(7)(8) Communications.~~ A judge may initiate, permit, or consider communications, including ex
131 parte communications, made as part of a case assigned to the judge in a problem-solving
132 court, consistent with the signed agreement.

133 Effective January 28, 2019