

1 **Appendix B. Justice Court Standards For Recertification**

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3 **Instructions to applicant for recertification**

4 As part of the application process, each entity should carefully review all requirements for the
5 operation of Justice Courts. In order to aid governing bodies in obtaining the necessary
6 information regarding the continuing obligations of an entity with respect to the operations of the
7 Court, the governing body of each entity must request a written opinion from its attorney
8 advising the entity of all requirements for the operation of a Justice Court, and the feasibility of
9 maintaining a Justice Court. In addition, prior to submission of this application, each entity must
10 duly pass a resolution requesting recertification. The resolution must also affirm that the entity is
11 willing to meet all requirements for the operation of the Court during the period of certification. A
12 copy of the attorney's opinion and the resolution must accompany the application.

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14 A representative of the entity may appear before the Committee to present the application and
15 may present any additional information which the applicant desires to present to the Committee.
16 In the event that additional information is deemed necessary, the Committee may request such
17 additional information from the applicant. Certification will certify the court to process all cases
18 which come within the jurisdiction of the court including criminal, civil and small claims cases
19 pursuant to Section 78A-7-106.

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21 **(1) Statutory Requirements.** Statutes of the State of Utah require that certain standards be
22 met in the operation of a Justice Court. These statutory requirements include:

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24 (1)(A) All official court business shall be conducted in a courtroom or an office located in
25 a public facility which is conducive and appropriate to the administration of justice
26 (Section 78A-7-213).

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28 (1)(B) Each court shall be opened and judicial business shall be transacted every day as
29 provided by law (Section 78A-7-213), although the judge is not required to be present
30 during all hours that the court is open.

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32 (1)(C) The hours that the court will be open shall be posted conspicuously at the court
33 and in local public buildings (Section 78A-7-213).

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35 (1)(D) The judge and the clerk of the court shall attend the court at regularly scheduled
36 times (Section 78A-7-213).

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38 (1)(E) The entity creating the Justice Court shall provide and compensate a judge and
39 clerical personnel to conduct the business of the court (Section 78A-7-206 and Section
40 78A-7-211).

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42 (1)(F) The entity creating a Justice Court shall assume the expenses of travel, meals,
43 and lodging for the judge of that court to attend required judicial education and training
44 (Section 78A-7-205).

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(1)(G) The entity creating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (Section 78A-7-211).

(1)(H) The entity creating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (Section 78A-7-209).

(1)(I) The entity creating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (Section 78A-7-209).

(1)(J) The entity creating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (Section 78A-7-209).

(1)(11) Witnesses and jury fees as required by law shall be paid by the entity which creates the Court.

(1)(K) Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (Section 78A-7-121 and Section 78A-7-119).

(1)(L) Every entity creating a court shall pay the judge of that court a fixed compensation (Section 78A-7-206).

(1)(M) Court shall be held within the jurisdiction of the court, except as provided by law (Section 78A-7-212).

(1)(N) The entity creating the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (Section 78A-7-214).

(1)(O) All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

(1)(P) An audio recording system shall maintain the verbatim record of all court proceedings. Section 78A-7-103.

(1)(P)(i) For Class I and Class II justice courts, the system must:

(1)(P)(i)(a) be a stand-alone unit that records and audibly plays back the recording;

(1)(P)(i)(b) index, back-up and archive the recording and enable the record to be retrieved.

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- (1)(P)(i)(c) have at least four recording channels;
- (1)(P)(i)(d) have a one-step "on" and "off" recording function;
- (1)(P)(i)(e) have conference monitoring of recorded audio;
- (1)(P)(i)(f) have external record archiving from the unit with local access;
- (1)(P)(i)(g) be capable of being integrated with the courts public address system; and

(1)(P)(ii) For Class III and Class IV justice courts, the system must, at a minimum:

- (1)(P)(ii)(a) be a stand-alone unit that records and audibly plays back the recording;
- (1)(P)(ii)(b) index, back-up and archive the recording and enable the record to be retrieved; and
- (1)(P)(ii)(c) have at least two recording channels.

(1)(P)(iii) The Board of Justice Court Judges may create a list of products that meet these criteria.

(2) Judicial Council Minimum Requirements. In addition to those requirements which are directly imposed by statute, Section 78A-7-103 directs the Judicial Council to promulgate minimum requirements for the creation and certification of Justice Courts. Pursuant to statute, the Judicial Council has adopted the following minimum requirements:

- (2)(A) That the Court be opened for at least one hour each day that the court is required to be open as provided by law (Section 78A-7-213).
- (2)(B) That the judge be available to attend court and conduct court business as needed.
- (2)(C) That the minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public. (A suggested courtroom configuration is attached).

133 | (2)(D) A judicial robe, a gavel, current ~~bail~~fine schedules, a copy of the Code of Judicial
134 Administration, and necessary forms and supplies.

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136 (2)(E) Office space for the judge and clerk (under certain circumstances this space may
137 be shared, but if shared, the judge and clerk must have priority to use the space
138 whenever needed). The office space shall include a desk for the judge and a desk for
139 the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and
140 a telephone for the clerk, appropriate office supplies to conduct court business, a cash
141 register or secured cash box, a typewriter or word processor, and access to a copy
142 machine.

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144 (2)(F) A clerk must be present during the time the court is open each day and during
145 court sessions, as required by the judge.

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147 (2)(G) The entity must have at least one peace officer (which may be contracted).

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149 (2)(H) A court security plan must be submitted consistent with C.J.A. Rule 3-414.

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151 (2)(I) Each court must have at least one computer with access to the internet, and
152 appropriate software and security/encryption technology to allow for electronic reporting
153 and access to Driver License Division and the Bureau of Criminal Identification, as
154 defined by the reporting and retrieval standards promulgated by the Department of
155 Public Safety.

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157 (2)(J) Each court shall report required case disposition information to DLD, BCI and the
158 Administrative Office of the Courts electronically, as described in number 9 above.

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160 **(3) Classification of Courts Based on Case Filings.** In establishing minimum requirements,
161 the Judicial Council has determined that Justice Courts with higher case filings require greater
162 support services. To accommodate the great differences in judicial activity between Justice
163 Courts within the state, the Council has divided courts into four classes based upon the average
164 monthly cases filed in that court. Minimum standards have been set for each classification.

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166 (3)(A) **Class IV Courts.** Courts which have an average of less than 61 cases filed each
167 month are classified as Class IV Courts. The minimum requirements for a Class IV Court
168 are stated above. (These requirements are also attached as Class IV minimum
169 requirements). These requirements include both the statutory requirements and
170 requirements promulgated by the Judicial Council, and are sometimes hereinafter
171 referred to as "base requirements."

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173 (3)(B) **Class III Courts.** Courts which have an average of more than 60 but less than
174 201 cases filed each month are classified as Class III Courts. In addition to the base
175 requirements, a Class III Court must be open more hours each week (see attached

176 Class III minimum requirements), and court must be scheduled at least every other
177 week.

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179 (3)(C) **Class II Courts.** Courts which have an average of more than 200 but less than
180 501 cases filed each month are classified as Class II Courts. In addition to the base
181 requirements, Class II Courts are required to be open additional hours (see attached
182 Class II minimum requirements), the courtroom configuration is required to be
183 permanent (although the courtroom may be used by another entity when the court is not
184 in session), court must be scheduled at least weekly, the judge must be provided an
185 appropriate office (chambers) for his own use, clerical space may not be shared, at least
186 one full-time clerk must be provided (see attached Class II minimum requirements), and
187 the courtroom, judge's chamber and clerk's office must be in the same building.

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189 (3)(D) **Class III Courts.** Courts which have an average monthly filing of more than 500
190 cases are classified as Class I Courts. Class I Courts are considered to be full-time
191 courts. In addition to the base requirements, a Class I Court must have a full-time judge,
192 at least three clerks, it must be open during regular business hours, it must have a
193 courtroom which is dedicated for the exclusive use as a court and which meets the
194 master plan guideline adopted by the Judicial Council, and the judge's chambers and
195 clerk's office cannot be shared by another entity.

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197 **(4) Waivers.** The State Legislature has provided that any Justice Court which continues to meet
198 the minimum requirements for its class is entitled to be recertified. However, the Judicial Council
199 also has authority to waive any minimum requirement which has not been specifically imposed
200 by the Legislature (i.e. requirements 1 - 10 above, which have been adopted by the Judicial
201 Council pursuant to Section 78A-7-103). Waiver is at the discretion of the Judicial Council and
202 will be based upon a demonstrated need for a court to conduct judicial business and upon
203 public convenience. Any waiver will be for the entire term of the certification. A waiver must be
204 obtained through the Judicial Council each time a court is recertified and, the fact that a waiver
205 has been previously granted, will not be determinative on the issue of waiver for any successive
206 application.

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208 There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are
209 affected by the type of cases filed (some courts have a high percentage of traffic matters, while
210 others handle significant numbers of criminal and small claims matters), the location of the
211 Court, the number of law enforcement agencies served, the policies and procedures followed by
212 each judge with respect to the operation of the Court, and many other factors. Clerical
213 resources and judicial time are particularly sensitive to local conditions. In order to adequately
214 function it is anticipated that some courts will exceed minimum requirements for clerical
215 resources and judicial time. Similarly, the particular circumstances of a court may allow it to
216 operate efficiently with less than the minimum requirements in the above areas; and in such
217 circumstances waiver may be requested.

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219 **(5) Extensions.** The statute also provides that the Judicial Council may grant an extension of
220 time for any requirement which is not specifically required by statute. An extension may be
221 granted at the discretion of the Judicial Council where individual circumstances temporarily
222 prevent the entity from meeting a minimum requirement. An extension will be for a specific
223 period of time and the certification of the court will terminate at the end of the extension period.
224 In order for the court to continue to operate beyond the extension period, the court must be
225 certified as meeting all requirements, obtain an additional extension, or obtain a waiver as
226 provided above.

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228 **(6) Judge Certificate.** Applications for existing courts for recertification shall be accompanied
229 by a certificate of the judge, on a form approved by the Judicial Council, certifying that the
230 operational standards for the court have been met during the prior year. Any exceptions to
231 compliance with the minimum requirements or operational standards shall be noted on the
232 above form. In addition, individual Justice Court Judges must meet with the governing body of
233 the entity which created the court at least once a year to review the budget of the court, review
234 compliance with the requirements and operational standards of the court, and discuss other
235 items of common concern and shall certify that this meeting has been held, and that the
236 operational standards for the court have been met during the prior year.

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238 **(7) Justice Court Standards Committee.** Upon submission of an application, the Justice Court
239 Standards Committee will conduct an appropriate independent investigation and notify the entity
240 of its initial recommendations, whether in favor or against certification. If the Committee intends
241 to recommend against certification, it shall specify the minimum requirements which have not
242 been met. The entity may then present additional information to the Committee, request an
243 extension, or request a waiver. After making an appropriate investigation based upon any
244 additional information or request made by the entity, the Committee will then submit its
245 recommendations to the Judicial Council. The recommendations shall specify whether or not a
246 waiver or extension should be granted, if either has been requested. If the recommendation is
247 against recertification, or against waiver, or against extension, the entity may request that it be
248 allowed to make an appearance before the Judicial Council. Any request to appear before the
249 Judicial Council must be filed within 15 days of notification of the Committee's
250 recommendations.

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252 If you have any questions concerning this application, please contact James Peters, counsel to
253 the Justice Court Standards Committee, at P. O. Box 140241, Salt Lake City, Utah 84114-0241,
254 telephone: (801)578-3824.

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256 | *Effective May 128, 2020*