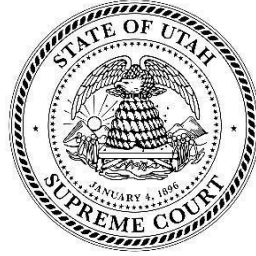


UTAH SUPREME COURT AD HOC COMMITTEE



REGULATORY REFORM

Nick Stiles, Co-Chair; Maryt Fredrickson, Co-Chair

CJA Workgroup Meeting: May 28, 2026

12:00pm - 1:00pm

Hybrid Meeting

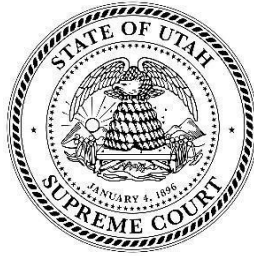
In person venue: Judicial Council

[Public Meeting Link](#)

1. Welcome
2. Review of Meeting Minutes (Tab 1)
3. CJA Survey Results (Discussion led by Hayley and Jayme)
4. Discussion: Confidentiality & Mandatory Reporting (Tab 2)
5. Discussion: How to authorize CJAs to continue their CJA work after departing from a sponsoring organization
6. Action Items

TAB 1

UTAH SUPREME COURT AD HOC COMMITTEE



Meeting Minutes
Utah Supreme Court's Ad Hoc Committee on Regulatory Reform
Community Justice Advocates Work Group
Thursday, April 30, 2026
12:00 - 1:00
Online via WebEx

Attendance by WebEx: Maryt Fredrickson, Bre Hickerson, Dr. Jayme Walters, Andrea Donahue, Stacy Haacke, Hayley Cousin, Lakshmi Vanderwerf, Megan Connelly, Tanya Rosado, Janine Liebert, Mark Steinagle
Guest CJAs: Cassie O'Brien, Davis Turnbull, Melaine Webster, Lindsey Garlick

1. Welcome

2. Review of Meeting Minutes

- The minutes were reviewed and approved with one correction to a name spelling. Maryt then turned the floor over to Hayley and Jayme to lead our CJA Q&A.

3. Conversation with CJAs, moderated by Hayley and Jayme

- Introductions: Hayley invited our 4 CJA guests to introduce themselves and tell us a bit about their practice areas before we jumped into questions.

Examples of cases that felt particularly impactful to our CJA guests:

- Cassie talked about the fact that in Uintah County, CJAs are allowed to go onsite for domestic violence cases once the site is deemed safe. She talked about being able to have CJAs discuss the difference between protective orders and stalking injunctions with clients. She also noted that judges know them and the CJAs know what questions they will ask their clients for the types of issues they generally help with.

- Lindsey said that her program at the Duchesne County Sheriff's Department is extremely impactful. She likes helping emotionally prepare clients for what court will entail and talked about the difference that makes.
- Davis talked about a client that was evicted and how he helped her and her children stay off the streets and negotiate removal of treble damages from the debts she owed her prior landlord.
- Melaine talked about helping a debt client negotiate with debt collectors, as well as the value of helping clients with smaller, everyday issues.

Barriers to Becoming a CJA

- The CJAs noted that there are minimal barriers to becoming a CJA. The time commitment is significant and doesn't come with any financial incentive, but the CJAs didn't feel this discouraged them from this work.
- The CJAs did say that even a small cost could become a barrier for rural CJAs because their budgets and salaries are so much less than non-rural advocates.

Ongoing CJA Requirements (e.g. training, filing fees, etc.)

- The CJAs noted that refresher trainings would be appreciated, especially in relation to changes to relevant laws. Monthly CLEs exist already and the CJAs like having those.
- If a filing fee is imposed, a fee waiver option would also be appreciated.

Changes the CJAs don't want to see

- Attorney mentorship is critical and CJAs need this to continue.
- Jayme asked what kind of mentorship CJAs prefer. Lindsey mentioned that getting a response within 24-48 hours is preferable because of the urgency and safety components when you are dealing with protective orders. Melaine noted that the CJA discussion board is really helpful. Cassie said that having access to other CJAs is also really valuable.
- No minimum quota for CJA work, please, as the workload ebbs and flows.

How are CJAs perceived/how does that perception affect their effectiveness?

- One CJA noted that local attorneys often help her prepare documents and refer clients to her that can't afford to pay an attorney.
- There was mixed discussion about judges' perception of CJAs. One CJA noted that the 8th district held a staff training on CJAs, so those judges are more familiar with these advocates and sometimes even have the CJAs introduce themselves for the record and explain their scope. Judge Beech (8th District) is particularly supportive of CJAs! But another CJA has felt like an

annoyance before because the judge and other attorneys didn't know what a CJA was and what she was allowed to do.

- The CJAs felt like judges responded better to their clients because of their presence and that clients that have a CJA are taken more seriously. Court proceedings seem to go smoother with a CJA and clients are better prepared for how to act in court and what to expect. Opposing parties are often more willing to negotiate with clients that have a CJA to assist them.

What resources and support do CJAs need to be successful?

- Funding for volunteers would be much appreciated, as people often volunteer and spend hours assisting clients. This would allow non-profits to allow their staff to spend more time helping in a CJA capacity.
- Reference guides would be helpful for common practice areas.
- Having access to other CJAs, especially for rural CJAs, is very helpful.

Do you want your certification to travel with you if you leave your agency?

- CJAs would all appreciate a portable certification and can't currently do that. They reiterated that many CJAs have spent years doing the work and learning about common legal issues in their practice areas, so their individual experience should count for something after they leave an agency.

Do you wish you could charge for CJA services?

- It would be nice to have the option, just because a lot of the non-profit employers they work with are not stable with current funding cuts, etc.
- But the CJAs emphasized the value of providing these free services because of the kinds of clients and issues they work with. One CJA noted that she couldn't have charged any of her past clients in good conscious because of their circumstances.
- The CJAs also noted that being paid for these services could create a conflict that would prevent them from being able to work in their current roles.
- Grants for agencies that hire CJAs would be helpful, but the CJAs were not motivated by money at all and many said they would do the work for free.

Final Thoughts

- One CJA said that if this program went away, she would feel it is an ethical violation for her not to assist people in the matters that she has knowledge and expertise in.
- Two areas to consider expanding services to are divorce/custody and immigration, because these are major areas in rural areas. A criminal law

program is another option, so that CJAs could help take simple matters off of public defender's plates.

- One CJA reiterated how impactful it is to be able to reduce clients' anxiety and give them some form of support in some of the hardest moments they've had (like losing their homes).
- CJA-oriented scholarships for people considering law school or other education in this field would be really valuable.

We asked about the scope of CJAs and if an issue outside of their certification area comes up, what happens.

- The CJAs noted that you just refer that issue out to another CJA with a certification in the practice area.
- A referral list that allowed CJAs to collaborate in this way would be really helpful, because they don't always know who to refer people out to.
- Agency constraints are also worth noting. For example, one CJA described that someone can only get debt/housing help from CJAs if they are victims of domestic violence.

4. Action Items

- Hayley will put together a list of questions to send out a CJA survey.
- We will continue refining our recommendations at our May meeting as we prepare to start writing our final report.

TAB 2

TO: FILE
FROM: NATHANAEL PLAYER
RE: DUTY TO REPORT VS ATTORNEY DUTY OF CONFIDENTIALITY
DATE: MAY 14, 2026

Are CJAs mandatory reporters like social workers or are they treated like lawyers and subject to stricter requirements regarding confidentiality?

Short Answer

CJAs operating under the supervision of a lawyer are bound by the Rules of Professional Conduct and are probably not mandatory reporters. But CJAs who are not operating under the supervision of a lawyer or who are providing social (and not legal) services are mandatory reporters. And if a client comes to a CJA first seeking social services and then subsequently seeks legal services or vice versa, it is unclear what duties apply; scholars suggest the duties would apply based on what the initial contact with the client was about. So if social services were sought first and then a legal question arose, the CJA would be a mandatory reporter. But if legal services were sought first and then the CJA offered social services, the CJA would be bound by the duty of confidentiality. The limits of confidentiality would have to be disclosed to the client in the first scenario but not necessarily the second. This is likely to be confusing for both clients and CJAs. Given the all of the complexities with regard to training CJAs on this and educating clients, and knowing that CJAs are first and foremost social services workers who provide legal services ancillary to all of their other work, it makes sense to disclose the limits of confidentiality within the context of mandatory reporting and have clients waive any possible protections that might apply. If a CJA hands a case off to a lawyer and plans to continue to work on the case, the CJA should communicate to the lawyer that although the CJA has been providing legal services, they understand themselves to be a mandatory reporter so that the lawyer can manage their own ethical obligations.

Analysis

When a CJA is acting under the supervision of a lawyer, they are bound to the Rules of Professional Conduct. Rule 3-5.1 requires supervising and managing lawyers to ensure that lawyers and other legal professionals conform to the Rules. CJAs are other legal professionals – they provide legal advice and are practicing law.¹ Even if they are not considered other legal professionals, CJAs operating under the supervision of a lawyer would still be bound by the rules as nonlawyer assistants.²

Like lawyers, CJAs are required to keep confidential the information their clients share with them in the course of representation, even if limited in nature. They may only reveal

¹ *Cf.* The 2022 comments to the Utah Rules of Evidence make clear that sandbox entities are “legal professionals.”

² Rule of Professional Conduct (hereafter Rule) 3-5.3 require lawyers to ensure adherence to the rules by nonlawyer assistants.

information reasonably necessary to prevent reasonably certain death or bodily harm. Rule 3-1.6. Additionally, CJAs must remain loyal to their clients, avoid conflicts of interest that interfere with the lawyer's loyalty to their client and not use information to disadvantage a client. Rules 3-1.7 and 3-1.8.

However, many CJAs are often mental health professionals, such as social workers. Social workers are bound by the NASW Code of Ethics by [Utah Admin. R156-60e-502.2](#), which defines unprofessional conduct of licensed social workers as defined in Utah Code 58-60-110 (the Mental Health Professional Act, which provides for licensing of social workers) to include failing to abide by the NASW Code of Ethics.³ While lawyers have a duty that focuses on their client with almost no consideration for others, social workers balance client loyalty with a duty to the larger society and accept limits on their duty of confidentiality. NASW Code 1.01 specifically discusses a duty to report abuse. NASW Code 1.07, which discusses privacy and confidentiality, specifically provides for an exception to the duty of confidentiality for compelling reasons.

The language of the NASW code is less forceful than the Rules of Professional Conduct. NASW Code 1.07 details what social workers *should* do or not do. Meanwhile, Rule 3-1.6 unequivocally says that "a lawyer shall not reveal confidential information." Given the more assertive language of the Rules, if the only question were how to deal with the difference in language, the Rules would control because the language leaves no room for doubt – shall is a much more demanding imperative than should.

However, Utah Code 62A-4a-403 requires further analysis. It requires "a person" who has reason to believe that a child is, or has been, the subject of abuse or neglect (including the potential for abuse or neglect) to report the suspected abuse to DHS or law enforcement. The statute carves out an exception for lawyers, not requiring reporting if the knowledge or belief of abuse or neglect arises from the representation of a client. But the statute says a lawyer is required, and (when read with Rule 3-1.6) only allowed, to report suspected abuse if the lawyer knows that the abuse is reasonably certain to lead to certain death or substantial bodily harm. Thus, it is likely that CJAs acting under the supervision of a lawyer are not mandatory reporters.

Most others considering this issue have agreed with this understanding, but not all of them. The National Association for Public Defense (NAPD), considering an analogous question in the context of social workers helping lawyers working on death penalty cases, asserts that "so long as the information relates to the representation of the client and is learned by the lawyer or member of the legal team in the course of the representation" then the lawyer must not allow disclosure.⁴ Even if the representation has ended and the social worker continues to work with the client, their position is that disclosure would not be allowed. If the social worker had doubts as to their own professional liability, NAPD recommends having the lawyer take necessary steps (requesting a court to rule on the question of the appropriateness of

³ The analysis is largely the same for MFTs under Utah Admin R156-60e-502.3 and AAMFT Standard 2.2. MFTs have a more rigid standard than social workers – the code says the "do not disclose client confidences."

⁴ NAPD Formal Ethics Opinion 14-1, p. 4.

disclosure) to protect the social workers from liability for failing to report.⁵ The legal culture around the importance of confidentiality for lawyers is extraordinarily protective. In California, a juvenile defendant facing charges was ordered to be evaluated for his ability to stand trial by a mental health professional who would report any concerns regarding abuse, disallowing the use of a professional who would abide by the lawyer rule of confidentiality. The appellate court overturned the juvenile court, relying on the reasoning that because lawyers in California are exempt from mandatory reporting, the work done ancillary to representation is also exempt from mandatory reporting. *Elijah W. v. Superior Court* (2013) 216 Cal. App. 4th 140, 156.⁶ However, it is unclear that courts in other jurisdictions would rule similarly on this question. [Nevada Formal Opinion No. 30](#) (2005) notes that the Nevada Supreme Court would likely prioritize the attorney's duty of confidentiality over the mandatory reporting requirements.⁷ [Arizona Ethics Opinion EO-19-0003](#) hedges and says that lawyers should take steps to prevent nonlawyer assistants from violating confidentiality concerns, but notes that ultimately, the nonlawyer assistant could be required to report; the opinion requires lawyers to disclose when they are using nonlawyer assistants and tell clients that their nonlawyer assistant may have to disclose concerns regarding abuse. Arizona relied on [D.C. Ethics Opinion 282](#) (1998), which came to the same conclusion. [Maryland Ethics Docket No. 2010-01](#) suggests that their own lawyer rules of professional conduct for lawyers do not take priority over mandatory reporting laws and cautions against lawyers working with social workers. The available authorities lean towards protection of client confidentiality, which is where Utah is likely to land, but it is not a guarantee.

Based on the uncertainty, it would be wise to follow Arizona and DC's advice and require CJAs to warn their clients that the information clients share with them regarding abuse or neglect **might** require the CJA to report the client. This would be a neutral position, merely informing the client of the uncertainty involved – it would also be consistent with the duty to communicate with clients, explain the nature of the client's legal issue and any limits on the assistance the lawyer can provide. Rule 3-1.4.

But it is more complicated than that because CJAs may be involved with clients in other contexts where their social worker role is more at play and their CJA role is only ancillary. In those contexts, the social worker duty to report would likely apply, because the confidentiality protection flows from attorney involvement.⁸ This presents a more complicated policy question, asking us to situate the CJA program more in line with either legal professionals or mental health professionals, or to add nuance and complication, asking CJAs and clients to hold the distinction between when confidentiality applies. The disclosure to clients would have them consider whether the initial contact with the CJA is legal in nature and so confidentiality applies or whether the initial contact is regarding social services, in which case

⁵ *Id.* at p. 5.

⁶ An old law review article contains a lengthy defense of attorney confidentiality in the wake of mandatory reporting laws. Robert P. Mosteller, Child Abuse Reporting Laws and Attorney-Client Confidences: The Reality and the Specter of Lawyer As Informant, 42 *Duke Law Journal* 203-278 (1992) Available at: <https://scholarship.law.duke.edu/dlj/vol42/iss2/1>.

⁷ At p. 9.

⁸ Alexis Anderson, Lynn Barenberg & Paul R. Tremblay, *Professional Ethics in Interdisciplinary Collaboratives: Zeal, Paternalism and Mandated Reporting*, 13 *Clinical L. Rev.* 659 (2007).

no confidentiality would apply. But it still creates uncertainty when the initial contact was for social services but then legal services were requested or vice versa. Scholars considering this question suggest that, regardless of subsequent services sought, the focus should be on the nature of the initial interaction with the client.⁹ Given that most CJAs are primarily social services workers and that the legal work is only complementary to their other work and it appears that CJAs they only handle a few clients at a time, positioning the program more in line with mental health professionals, seems to make sense. Because CJAs are so new and most people are unfamiliar with them, CJAs who eventually hand a case off to a lawyer but remain engaged to support the lawyer should be certain to disclose the mandatory reporting requirements to the lawyer so the lawyer can manage the CJA's scope of involvement going forward in a way that satisfies the lawyer's own ethical obligations.

⁹ *Id.*

Mandatory Reporting Statutes and Rules

Vulnerable Adults, Utah Code § 26B-6-204

- “if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency. . .”
- But, the reporting requirement does not apply to: “an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.”

Children, Utah Code § 80-2-601

- “ [I]f a person, . . . has reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the person shall immediately report the suspected abuse or neglect to the division or to the nearest peace officer or law enforcement agency.”
- But the reporting requirement does not apply to: “an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.”
- Utah Rules of Professional Conduct, Rule 1.6: [link](#)

Utah’s Uniform Mediation Act

The UMA provides the framework for confidentiality and privilege of mediation proceedings. Under the UMA, “mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.” Utah Code § 78B-10-108.

Privilege Against Disclosure and Exceptions (§ 78B-10-104, 105, 106)

- Grants privilege to mediation communications
- Standard and express exceptions to privilege (e.g., a party waives privilege, communication includes threats or plans to commit crimes, disclosure necessary for the purpose of defending against a malpractice/misconduct claim, etc.)

Mediator Reports (§ 78B-10-107)

- Mediators generally cannot disclose info about a mediation other than:
 - Whether the mediation is ongoing or terminated, who attended, and whether settlement was reached; or
 - A “mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.”

Utah ADR Rule 104

- (b) The provider should discuss the providers’ and the participants’ expectations of confidentiality prior to undertaking the process. Prior to undertaking the process the provider should inform the participants of applicable limitations of confidentiality such as statutory, judicial or ethical reporting requirements.