

(Draft – Awaiting Formal Approval)
**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Thursday, April 21, 2016 – 9:00 a.m. – Room 445 State Capitol

Members Present:

Sen. Howard A. Stephenson, Senate Chair
Rep. Curtis Oda, House Chair
Sen. J. Stuart Adams
Sen. Jim Dabakis
Sen. Gene Davis
Sen. Mark B. Madsen
Rep. LaVar Christensen
Rep. Mark A. Wheatley
Rep. Carol Spackman Moss

Rep. R. Curt Webb

Members Absent:

Rep. LaVar Christensen

Staff Present:

Mr. Arthur L. Hunsaker, Policy Analyst
Ms. Christine R. Gilbert, Associate General Counsel
Ms. Tracey Fredman, Legislative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Stephenson called the meeting to order at 9:10 a.m. Rep. Christensen was excused from the meeting.

MOTION: Sen. Adams moved to approve the minutes of the January 22, 2016, meeting. The motion passed unanimously. Sen. Davis, Sen. Madsen, and Rep. Wheatley were absent for the vote.

2. Judicial Nomination Standards

Representative Merrill F. Nelson discussed the diversity requirement in the application for judicial positions and why the requirement does not appear to be authorized by statute.

Ms. Gilbert explained that the rule at issue is an executive branch rule, not a judicial rule, and is therefore appropriate for this committee to review.

Mr. Ron Gordon, Executive Director, Utah Commission on Criminal and Juvenile Justice, noted the importance of reading statutes and constitutional provisions in context in order to understand intent. To clarify, he noted that judges must be appointed based on fitness for office and that the constitution prohibits selection based on any kind of partisan politics. Mr. Gordon stated that there is nothing in the statutory language to suggest a diversity requirement, but that when all other factors are equal, it is appropriate to consider issues of diversity.

The committee discussed whether the statutory language should be included in rule. Representative Nelson and Mr. Gordon responded to committee members' questions. Mr. Gordon indicated that in light of the discussion his intent would be to remove all language in the application that relates to "other considerations" and put it into administrative rule.

Chair Stephenson noted that without a quorum present the committee would not be able to take any action. He asked Mr. Gordon to submit to the committee, in writing, the language that the Commission on Criminal and Juvenile Justice (CCJJ) would recommend be added to its administrative rules related to evaluating a candidate's experience, and asked that the CCJJ include a description of its process for developing the recommendations, for committee review at a future meeting. Mr. Gordon stated that he would do that.

3. R392-600-5 Decontamination Procedures

Committee staff distributed "Section 19-6-906 Decontamination Standards – Specialist Certification Standards – Rulemaking."

Mr. Paul Smith, Executive Director, Utah Apartment Association, discussed the testing procedures used to determine whether methamphetamine levels on private properties exceed safe levels. He indicated that the Utah Department of Health uses a composite testing procedure that effectively lowers the standard for a positive test, does not provide an accurate assessment of methamphetamine levels, and sometimes forces property owners to pay the cost of cleaning up properties that do not exceed safe levels of methamphetamine.

Dr. Rolfs, Deputy Director, Utah Department of Health, noted that the rule is consistent with legislative intent and addressed the challenge of testing for methamphetamine.

Mr. Sam Lefevre, Program Manager, Environmental Epidemiology, Utah Department of Health, presented "Methamphetamine" and briefed the committee on the dangers of methamphetamine exposure, especially in children, and how safe levels of methamphetamine exposure are determined.

Mr. Gary Edwards, Executive Director, Utah Department of Health, discussed testing procedures in response to committee members' questions.

Committee discussion followed. No action was taken on this item.

4. Committee Business

The chairs asked committee staff to contact committee members not present to determine whether the next meeting will be Tuesday May 10, 2016, or Wednesday, May 11, 2016.

5. Adjournment

Chair Stephenson adjourned the meeting at 12:17 pm