

UTAH JUVENILE COURT: NONJUDICIAL ADJUSTMENT PROCESS

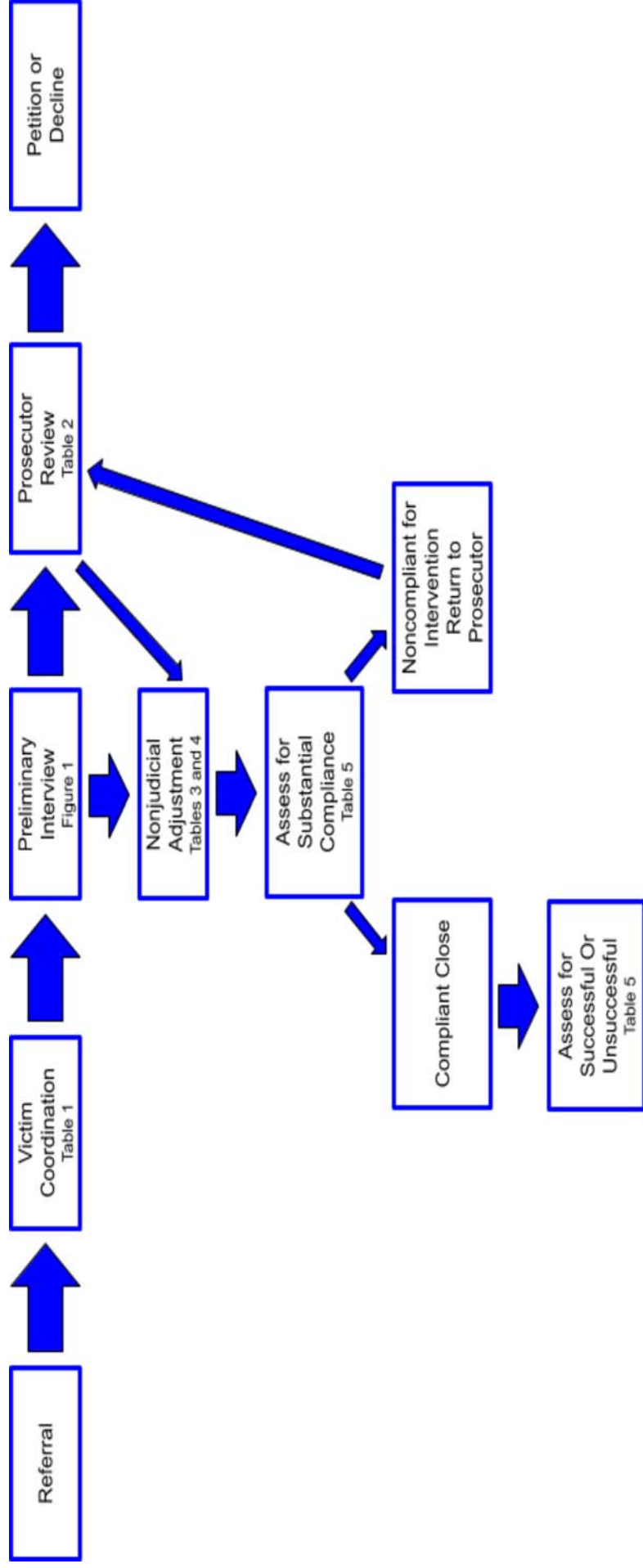


Table 1. Victim Coordination Procedures with Nonjudicial Adjustments	
Probation Shall:	<ul style="list-style-type: none"> • Provide initial notice to reasonably identifiable and locatable victims of the offense contained in the referral, within seven days of receiving the referral. [78A-6-602(2)(c)(i)] • The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available. [78A-6-602(2)(c)(iii)]
Victim Shall:	<ul style="list-style-type: none"> • Provide upon request invoices, bills, receipts, evidence of injury, loss of earnings, and out of pocket loss. [78A-6-602(2)(c)(ii)(A)] • Provide documentation of the loss of compensation or reimbursement from insurance companies or agencies of Utah, or any other state or federal government received as a direct result of the crime for injury and/or loss of earnings. [78A-6-602(2)(c)(ii)(B)] • Provide proof of identification, including home and work address and telephone numbers. [78A-6-602(2)(c)(ii)(C)]
Victim/Offender Mediation	<ul style="list-style-type: none"> • Victim/Offender mediation may be offered in a nonjudicial adjustment as a way to settle restitution disputes for victim impact purposes or if requested by the victim. • Mediation is voluntary for the victims at any stage of the mediation process. [78A-6-602(2)(e)(vii)]

FIGURE 1. ELEMENTS OF THE NONJUDICIAL INTERVIEW PROCESS



TABLE 2. REFER TO PROSECUTOR FOR SCREENING AND REVIEW		
Required - Offense	Optional - Offense & Risk	Required - Procedural
<ul style="list-style-type: none"> Class A, B, C-Unlawful adolescent sexual activity [76-5-401.3] Driving under the influence pursuant to 41-6a-502 [78A-6-602(2)(k)(i)(A)] Reckless endangerment creating a substantial risk of death or serious bodily injury pursuant to 76-5-112 [78A-6-602(2)(k)(i)(B)] Negligent Homicide pursuant to 76-5-206 [78A-6-602(2)(k)(i)(C)] Sexual Battery pursuant to 76-9-702.1 [78A-6-602(2)(k)(i)(D)] Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises pursuant to 76-10-505.5 [78A-6-602(2)(k)(i)(E)] Possession of a dangerous weapon by a minor, but only if dangerous weapon is a firearm pursuant to 76-10-509 [78A-6-602(2)(k)(i)(F)] The minor has a current suspended order for JJS custody [78A-6-602(2)(k)(ii)] 	<ul style="list-style-type: none"> Probation officers <i>may</i> request that the prosecutor review the referral based on the results of the risk assessment [78A-6-602(2)(d)(i)] <ul style="list-style-type: none"> If the youth is high risk [78A-6-602 (2)(d)(i)(A)] If the youth is moderate risk and the referral is for a Class A offenses against person under Title 76, Chapter 5 or for miscellaneous provisions under Title 76, Chapter 9, Part 7 [78A-6-602 (2)(d)(i)(B)]. 	<ul style="list-style-type: none"> If the <i>minor</i> declines a nonjudicial adjustment [78A-6-602(2)(b)(vi)(B)] If the minor fails to respond to probation's inquiry after being provided with notice for the preliminary interview [78A-6-602(2)(b)(vi)(D)] If the minor fails to substantially comply with the conditions agreed upon in the nonjudicial adjustment [78A-6-602(2)(b)(vi)(C)] If the incident(s) require transfer out of district [Probation Policy 2.3- Case and Referral Transfers]

Nonjudicial Adjustments:

- A nonjudicial adjustment shall be offered if all of these apply to the minor:
 - Referred for a misdemeanor, infraction or status offense. [78A-6-602(2)(b)(ii)(A)], and
 - Has no more than two prior adjudications [78A-6-602(2)(b)(ii)(B)], and
 - Has no more than three prior unsuccessful nonjudicial attempts [78A-6-602(2)(b)(ii)(C)].ⁱⁱ
- A minor may not be denied an offer of nonjudicial adjustment due to an inability to pay a financial penalty. [78A-6-602(2)(d)(iv)]
- Acceptance of an offer of a nonjudicial adjustment may not be predicated on an admission of guilt. [78A-6-602(2)(d)(iii)]
- A nonjudicial adjustment should be completed for each episode. Episode is defined as a *single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.*ⁱⁱⁱ [78A-6-602(2)(b)(iii)]
- Probation officers shall offer the youth/family non-agreement resources based on screening tool results [e.g., PSRA & MAYSI-2] or stability concerns
- Table 3 outlines the continuum of responses and interventions for nonjudicial adjustments (R items are required, S items should be considered)

TABLE 3. RESPONSES AND INTERVENTIONS FOR NONJUDICIAL ADJUSTMENTS										
	Low Risk			Moderate or High Risk						
	Habitual Truancy ^{iv}	DUI	Status, Class C	Class B	Class A	Habitual Truancy ^{iv}	DUI	Status, Class C	Class B	Class A
Sliding Scale Assessment [NJ Fee] ^v [JJS/DCFS custody youth shall not be assessed a fee]										
Sliding Scale Restitution ^{vi}		R	R	R	R		R	R	R	R
Victim Offender Mediation [VOM] ^{vii} [If requested by victim or determined necessary by probation]		S	S	S	S		S	S	S	S
No Contact Condition [If requested by victim or determined necessary by probation]		S	S	S	S		S	S	S	S
Shall Complete A Substance Abuse Screening And Follow All Recommendations ^{viii}		R					R	S	S	S
Community Service ^{ix}										
Minor Will Develop A Case Plan, Meet With Probation As Directed And Participate In Case Plan Goals ^x							R	R	R	R
Intervention Based On Criminogenic Risk Factors							R	R	R	R
Truancy Mediation	S						S			
Attendance, Educational Plan and/or Alternative School Program	S						S			
Other Reasonable Actions In The Interest Of The Minor, The Community, And The Victim ^{xi}	S	S	S	S	S	S	S	S	S	S

TABLE 4. FINES AND COMMUNITY SERVICE HOURS

Age of offense	Fines and Community Service Hours
<p>16 and above</p> <p><i>For youth 16 years old and above, the presumption is that a fine would be assessed, unless the community service hours would be more appropriate.</i></p>	<p><u>Fine</u>: Up to \$250.00 based on the sliding fee scale OR <u>Community Service Hours</u>: Class A Misdemeanor and above: 21-34 hours Class B Misdemeanor: 11-20 hours Class C Misdemeanor/Status/Infractions: 1-10 hours</p>
<p>Under 16</p> <p><i>For youth under the age of 16, the presumption is that community service hours would be assessed in lieu of the fine, unless a fine would be more appropriate.</i></p>	<p><u>Community Service Hours</u>: Class A Misdemeanor and above: 21-34 hours Class B Misdemeanor: 11-20 hours Class C Misdemeanor/Status/Infractions: 1-10 hours OR <u>Fine</u>: Up to \$250.00 based on the sliding fee scale</p>
<p>Below Poverty/Youth in JJS and DCFS custody</p> <ul style="list-style-type: none"> • Any deviation from the guidelines above must be staffed with the supervisor or chief. • Except for the youth in row 3, Probation Officers have discretion on whether a fine or CS hours are assessed based on the circumstances, appropriateness (e.g. age), and the unique needs and preferences by the youth and family. • Probation Officers have discretion in reducing the assessed fine or hours as an incentive for youth to complete other NJ components. Probation Officer may discuss incentives and ways for youth to earn a reduction in fine or hours during the NJ process. • The NJ will be closed as Unsuccessful and the referral will be forwarded to the prosecutor for screening <u>only if</u> the youth failed to complete either their fine OR hours, AND there was unsubstantial compliance with another NJ condition such as an intervention. 	<p><u>Community Service Hours</u>: Class A Misdemeanor and above: 21-34 hours Class B Misdemeanor: 11-20 hours Class C Misdemeanor/Status/Infractions: 1-10 hours</p>

TABLE 5. COMPLIANCE, SUBSTANTIAL COMPLIANCE AND SUCCESSFUL / UNSUCCESSFUL NONJUDICIAL ADJUSTMENTS

<ul style="list-style-type: none"> • Probation officers shall utilize the Behavioral Matrices to provide incentives for progress towards the youth's goals/obligations and to address noncompliant behavior/lack of progress prior to determining that a youth has been unsuccessful with their nonjudicial adjustment • If the youth and family have not been able to complete their fine within the first 90 days, the probation officer may file an extension for an additional 90 days. 	<ul style="list-style-type: none"> • 100% completion of sliding scale restitution • 100% completion of no contact conditions • Substantial compliance for interventions will be determined by intervention standards • Participation in truancy mediation (pre-meeting) • Participation in pre-meeting for victim/offender mediation (Unless the victim declines to participate) • Developed a case plan (100%) and attended 75% of meetings with probation <p>If the minor fails to substantially comply with the conditions agreed upon in the nonjudicial adjustment, the referral shall be sent to the prosecutor for screening [78A-6-602(2)(b)(vi)(C)]</p>
<p>Substantial Compliance</p>	<p>Completion of 100% of the terms and conditions of the nonjudicial adjustment or modified adjustment</p>
<p>Successful</p>	<p>Completion of less than 100% of the terms and conditions of the nonjudicial adjustment or modified adjustment</p>

[i] See *Probation Practices for Determining Nonjudicial Restitution*, Addendum to Probation Policy 2.4, *Nonjudicial Adjustment* and Probation Policy 3.1, *Victim Outreach and Response*.

[ii] A nonjudicial attempt should only be counted once per episode.

[iii] For information purposes, CARE identifies an episode based upon: (1) the referral number; (2) the law enforcement agency; and (3) the incident date. If there is not a referral number then it would be considered a separate episode. The probation officer should review the facts alleged to determine the appropriate number of episodes, and not rely solely on CARE.

[iv] A school or school district may refer a minor to court for Class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention. [53G-8-211(4)(a)] For minors referred to court for a Class C misdemeanor on school property or for Truancy, the school must appoint a school representative who has to be engaged with the youth and the family throughout the Juvenile Court process. [53G-8-211(4)(b)(i)] The school representative cannot be the school resource officer. [53G-8-211(4)(b)(ii)] The school must include the following information when referring to the court: Minor's attendance records; report of evidence-based alternative interventions used by school before the court referral and the name and contact for the school representative assigned to participate in the court process; and other relevant information. [53G-8-211(4)(c)(i-iv)]. If the facts do not allege a refusal

to participate, the probation officer should staff the case with the supervisor/chief to determine whether an RET closure is appropriate. If probation has made reasonable efforts to engage the school in the process and they have failed to do so the probation officer should staff the case with a supervisor/chief to determine whether an RET closure is appropriate.

[v] 78A-6-602(2)(e)(i) and 78A-6-602(2)(f).

[vi] 78A-6-602(2)(f).

[vii] 78A-6-602(2)(e)(vii).

[viii] If a minor violates Section 41-6a-502, regardless of whether a prosecutor reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol screening and participate in an assessment, if found appropriate by the screening, and if warranted, follow the recommendations of the assessment. [78A-6-602(2)(m)].

[ix] 78A-6-602(2)(e)(iii). Although limited community service hours are allowed, nonjudicial agreements for Habitual Truancy referrals should focus on remedies to attendance issues, as opposed to consequences.

[x] The probation officer should include the following statement when requesting a case plan as part of the nonjudicial agreement. "*@youth's name* will develop a case plan with probation, meet with probation as directed and participate in case plan goals"

[xi] 78A-6-602(2)(e)(viii).