



ASPEN TECH POLICY HUB

THE ASPEN INSTITUTE

Utah Supreme Court
320 E Capitol Street
Salt Lake City, Utah 84103

August 5, 2020

To: Utah Supreme Court
Re: Supreme Court Regulatory Reform Proposal

I am a fellow at the Aspen Institute's Tech Policy Hub and a public interest technologist. At Aspen, I study the role that Automated Advocates – tools that help users by automating away administrative burden while providing data that leads to the improvement of overall systems – can play in closing the access to justice gap. The Legal Services Corporation defines the justice gap as the difference between the civil legal needs of low-income Americans and the resources available to meet those needs.

I join the voices supporting the State in establishing a pilot regulatory sandbox and an Office of Legal Services Innovation in order to learn what innovations may lead to increased access to justice for those who are currently underserved by [“fostering innovation and promoting market forces, all while protecting consumers of legal services from harm.”](#)

I write with recommendations about how the Innovation Office should solicit, approve, and monitor the “individuals and entities...practicing law through technology platforms” identified under its regulatory purview in Section 3.3.2b of [The Proposed Utah Supreme Court Standing Order No. 15](#). Each of these actions are important in their own right. First, the Innovation Office must solicit qualified participants in order to meet its joint objectives to improve access to justice using innovative approaches and to learn enough from Phase I to implement a regulatory approach across the Utah legal market more broadly in Phase II. Second, the Innovation Office must determine the way to approve tools that will lead to improvements in access to justice and to reject tools that will harm consumers as is

its mandate in Standing Order Section 4.2. Third, the Innovation Office must determine the best way to monitor and report on technological sandbox participants as required of it in Standing Order Sections 4.8 and 4.14.

To ensure that the solicitation, approval, and monitoring of technology providers can succeed in the proposed regulatory sandbox, as well as to provide guard-rails to protect consumers against bad-faith actors, I respectfully encourage you to add three components to your regulatory sandbox during implementation:

1. **A “Requests for Startups” open call, paired with resources:** The Implementation Task Force has done a tremendous job engaging existing members of the legal technology community over the past year. However, there are many technologists who may come from outside the legal community and thus not find out about the sandbox until it is too late to participate. This would run counter to the goals of the Supreme Court to “[foster] innovation and [promote] market forces” as articulated in the Background section of the [Proposed Standing Order](#). Thus, the State should signal its eagerness for new entrants into the market by releasing an open solicitation for startups (nonprofit or for-profit) based on its most urgent legal challenges. Technology incubators and accelerators such as Y Combinator regularly and successfully use Requests for Startups to inspire entrants to consider new markets.

An optimal call for startups should be paired with an offering of resources for successful applicants beyond acceptance into the regulatory sandbox, such as connections to potential end users, collaboration opportunities with government digital service teams, financial backing, or access to free technology or mentorship. In case you find it helpful, a Sample Requests for Startups can be found at: <http://automatedadvocates.org/>.

2. **A published, iterative set of “Design Principles” for Automated Advocate builders:** Automated Advocate-style tools are relatively new. As the legal tech field heats up, it will be crucial that consumers, regulators, and builders come to a common understanding of what excellent vs. unethical digital citizenship looks like in this space. The Proposed Standing Order Section 4.2 authorizes the Innovation Office to “develop a notification form and process for intake, review, assessment, and response to notification.” The State should publish Design Principles – not rules – that technology-driven applicants must

benchmark themselves against as part of their intake and review process. This gives the opportunity for the State to encourage good practices and spark conversations with potential builders before they have to contemplate regulating. Similar design principles are mainstays of digital service teams across the globe. Here is a set of template [Design Principles](#), developed with input from builders of similar tools across the civic technology space, that could be used as a jumping off point.

- 3. A two-way collaboration on data sharing:** I applaud the Court's foresight in asking for categories of data to be provided to the Innovation Office to measure the effectiveness of the sandbox's participants in Proposed Order Section 4.8 and 4.14. I urge the Court to go one step further and offer two-way data collaboration instead of one. You should consider adding the opportunity for participants to request a digital service improvement that the Court could undertake that would make their tool more effective, such as making a certain dataset publicly available, or making certain information more machine readable. You should also request that participants use the data they have collected to make recommendations on where the State could improve its justice system to better serve consumers. In doing so, you will not only incentivize true collaboration with your applicants; you will also use this sandbox to jumpstart digital service improvements across the entire justice system, an effort that is especially important during COVID-19.

The unequal access to justice in America is a crisis. Thank you for continuing to maintain the urgency of action and continuous experimentation that this problem deserves.

Sincerely,
Jessica Cole
Fellow, Aspen Tech Policy Hub