

1 ~~Rule 3-111.01. Goals of p~~Performance evaluation ~~for certification for retention~~  
2 ~~election of senior judges and court commissioners.~~

3 Intent:

4 ~~To specify the goals of evaluating judges for certification for retention election.~~

5 Applicability:

6 ~~This rule shall apply to the Judicial Council and to the judges and commissioners of~~  
7 ~~the courts of record and courts not of record.~~

8 Statement of the Rule:

9 ~~The goals of the judicial performance evaluation program are to:~~

10 ~~(1) To~~ establish the criteria upon which senior judges and court commissioners will  
11 be evaluated, the standards against which ~~judicial~~ performance will be measured and  
12 the methods for fairly, accurately and reliably measuring ~~judicial~~ performance;\_

13 ~~(2) To~~ generate and to provide to senior judges and court commissioners information  
14 about their performance;\_

15 ~~(3) establish the procedures by which the Council will evaluate and certify judges for~~  
16 ~~retention election or reappointment;~~

17 ~~(4) To~~ establish the procedures by which the Judicial Council will evaluate and  
18 certify senior judges and court commissioners for reappointment;\_

19 ~~(5) provide meaningful and relevant information to the public or applicable appointing~~  
20 ~~authority to assist in the decision to retain or reappoint judges and commissioners; and~~

21 ~~(6) protect the independence of judges and commissioners in their obligations under~~  
22 ~~federal and state constitutions, federal and state statutes and court rules.~~

23 ~~Rule 3-111.02. Judicial performance evaluation criteria.~~

24 Intent:

25 ~~To specify the criteria upon which judges will be evaluated and certified.~~

26 Applicability:

27 This rule shall apply to the Judicial Council and to the active senior judges and court  
28 commissioners of the courts of record and courts not of record.

29 Statement of the Rule:

30 ~~↓~~(1) Senior judges and court commissioners shall be evaluated and certified upon  
31 the following criteria;\_

- 32 (1)(A) Integrity; ~~Factors considered may include but are not limited to:~~  
33 (A) avoidance of impropriety and appearance of impropriety;  
34 (B) freedom from personal bias;  
35 (C) ability to decide issues based on the law and the facts without regard to the  
36 identity of the parties or counsel, the popularity of the decision or concern for criticism;  
37 (D) impartiality of actions; and  
38 (E) compliance with the Code of Judicial Conduct.
- 39 (2) (1)(B) Knowledge and understanding of the law and procedures; ~~Factors~~  
40 ~~considered may include but are not limited to:~~  
41 (A) the issuance of legally sound decisions;  
42 (B) understanding of the substantive, procedural, and evidentiary law of the state;  
43 (C) attentiveness to the factual and legal issues before the court; and  
44 (D) the proper application of judicial precedents and other appropriate sources of  
45 authority.
- 46 (3) (1)(C) Ability to communicate; ~~Factors considered may include but are not~~  
47 ~~limited to:~~  
48 (A) clarity of bench rulings and other oral communications;  
49 (B) quality of written opinions with specific focus on clarity and logic, and the ability  
50 to explain clearly the facts of a case and the legal precedents at issue; and  
51 (C) sensitivity to impact of demeanor and other nonverbal communications.
- 52 (4) (1)(D) Preparation, attentiveness, dignity and control over proceedings;   
53 ~~Factors considered may include but are not limited to:~~  
54 (A) courtesy to all parties and participants; and  
55 (B) willingness to permit every person legally interested in a proceeding to be heard,  
56 unless precluded by law.
- 57 (5) (1)(E) Skills as a manager; ~~Factors considered may include but are not limited~~  
58 ~~to:~~  
59 (A) devoting appropriate time to all pending matters;  
60 (B) discharging administrative responsibilities diligently; and  
61 (C) where responsibility exists for a calendar, knowledge of the number, age, and  
62 status of pending cases.

63 ~~(6) (1)(F) P~~punctuality;—Factors considered may include but are not limited to:

64 ~~(A) the prompt disposition of pending matters;~~

65 ~~(B) meeting commitments on time and according to rules of the court; and~~

66 ~~(C) compliance with the case processing time standard established by the Council.~~

67 ~~(7) (1)(G) S~~service to the profession and the public; and—Factors considered may  
68 include but are not limited to:

69 ~~(A) attendance at and participation in judicial and continuing legal education~~  
70 ~~programs;~~

71 ~~(B) consistent with the Code of Judicial Conduct, participation in organizations~~  
72 ~~devoted to improving the justice system;~~

73 ~~(C) consistent with the highest principles of the law, ensuring that the court is serving~~  
74 ~~the public and the justice system to the best of its ability and in such a manner as to~~  
75 ~~instill confidence in the court system; and~~

76 ~~(D) service within the organizations of the judicial branch of government and in~~  
77 ~~leadership positions within the judicial branch of government, such as presiding judge,~~  
78 ~~Judicial Council, Boards of Judges, and standing and ad hoc committees.~~

79 ~~(8) (1)(H) E~~ffectiveness in working with other judges, commissioners and court  
80 personnel—Factors considered may include but are not limited to:

81 ~~(A) when part of a multi-judge panel, exchanging ideas and opinions with other~~  
82 ~~judges during the decision-making process;~~

83 ~~(B) critiquing the work of colleagues;~~

84 ~~(C) facilitating the administrative responsibilities of other judges and commissioners;~~  
85 ~~and~~

86 ~~(D) effectively working with court staff.~~

87 **~~Rule 3-111.03. Standards of judicial performance.~~**

88 ~~Intent:~~

89 ~~To specify the standards against which judicial performance will be measured and~~  
90 ~~the methods for fairly, accurately and reliably measuring judicial performance.~~

91 ~~Applicability:~~

92 ~~This rule shall apply to the Judicial Council and, except as otherwise provided, to the~~  
93 ~~judges and commissioners of the courts of record and not of record.~~

94 ~~Subsection (2)(A) shall apply to the judges and commissioners of the courts of~~  
95 ~~record.~~

96 ~~Subsection (2)(B) shall apply to the judges of the district court who conduct jury~~  
97 ~~trials.~~

98 ~~For judges standing for retention election in 2004 and beyond and for~~  
99 ~~commissioners subject to reappointment in 2003 and beyond, Subsection (2)(C) shall~~  
100 ~~apply from the effective date of the rule until the evaluation by the Council or for the~~  
101 ~~judge's or commissioner's term of office, whichever is shorter. Judges standing for~~  
102 ~~retention election in 2002 and commissioners subject to reappointment in 2002 shall~~  
103 ~~meet the case under advisement standard as it existed prior to the effective date of this~~  
104 ~~rule. (Former Rule 3-111(3)(C).)~~

105 Statement of the Rule:

106 ~~(1)(A) A judge standing for retention election or reappointment, or commissioner~~  
107 ~~standing for reappointment, shall be evaluated for compliance with the standards set~~  
108 ~~forth in this rule.~~

109 ~~(1)(B) No evaluation shall be based upon a criterion or standard in effect for less~~  
110 ~~than two years. However, the methodology for measurement may change periodically.~~  
111 ~~Evaluation shall be based upon performance during the current term of office.~~

112 (2) Standards of performance.

113 (2)(A) Survey of attorneys.

114 (2)(A)(i) The Council shall measure satisfactory performance by a sample survey of  
115 the attorneys appearing before the senior judge or court commissioner during the  
116 ~~preceding two years or such shorter~~ period for which the senior judge or court  
117 commissioner is being evaluated. The Council shall measure satisfactory performance  
118 based on the results of the final survey conducted during a judge's or court  
119 commissioner's term of office, subject to the discretion of a judge-court commissioner  
120 serving an abbreviated initial term not to participate in a second survey under Section  
121 ~~(2)(A)(viii)-(2)(A)(vi)~~ of this rule.

122 (2)(A)(ii) Survey scoring. The survey shall be scored as follows.

123 (2)(A)(ii)(a) Each question of the attorney survey will have six possible responses:  
124 Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No

125 Personal Knowledge. A favorable response is Excellent, More Than Adequate or  
126 Adequate.

127 (2)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable  
128 responses by the total number of all responses, excluding the "No Personal Knowledge"  
129 responses. A satisfactory score for a question is achieved when the ratio of favorable  
130 responses is 70% or greater.

131 (2)(A)(ii)(c) A judge's or court commissioner's performance is satisfactory if:

132 (2)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

133 (2)(A)(ii)(c)(2) the favorable responses when divided by the total number of all  
134 responses, excluding "No Personal Knowledge" responses, is 70% or greater.

135 (2)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey  
136 scores are satisfactory.

137 ~~(2)(A)(iii) Surveyor. As used in this Code, the term "Surveyor" means the~~  
138 ~~organization or individual awarded a contract through procedures established by the~~  
139 ~~state procurement code to survey respondents regarding the performance of judges.~~

140 ~~(2)(A)(iv) (2)(A)(iii) Survey respondents. The clerk for the judge or commissioner or~~  
141 ~~the Administrative Office of the Courts shall separately identify as potential respondents~~  
142 ~~all lawyers who have appeared before the judge or court commissioner at a hearing or~~  
143 ~~trial during the preceding two year period or such shorter period for which the judge or~~  
144 ~~commissioner is being evaluated.~~

145 (2)(A)(iv) Exclusion from survey respondents.

146 (2)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner  
147 shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who  
148 has resigned under discipline shall not be a respondent in the survey.

149 (2)(A)(iv)(b) ~~By certifying that one or more of the following conditions applies, the~~  
150 ~~judge or~~ With the approval of the Management Committee, a court commissioner may  
151 exclude an attorney from the list of respondents; ~~The judge or commissioner~~

152 ~~(2)(A)(v)(b)(1) has referred the lawyer to the Utah State Bar for discipline,~~

153 ~~(2)(A)(v)(b)(2) has found the lawyer in contempt of court,~~

154 ~~(2)(A)(v)(b)(3) has sanctioned the lawyer pursuant to rules of procedure,~~

155 ~~(2)(A)(v)(b)(4) has held the lawyer's law firm jointly responsible under Utah Rule of~~  
156 ~~Civil Procedure 11(c)(1)(A),~~

157 ~~(2)(A)(v)(b)(5) has presided in a civil or criminal proceeding to which the lawyer is a~~  
158 ~~party, or~~

159 ~~(2)(A)(v)(b)(6) has been the subject of an affidavit of bias or prejudice under Utah~~  
160 ~~Rule of Civil Procedure 63 or Utah Rule of Criminal Procedure 29 filed by the attorney in~~  
161 ~~which the attorney alleges animus of the judge or commissioner toward the attorney.~~

162 ~~(2)(A)(v)(c) Other exclusions:~~

163 ~~(2)(A)(v)(c)(1) A judge may request that the Judicial Council exclude from the survey~~  
164 ~~an attorney who does not qualify for exclusion under (b) if the judge court commissioner~~  
165 ~~believes the attorney will not respond objectively to the survey. The request must be~~  
166 ~~submitted within 14 days after receiving the form for excluding lawyers under (b).~~

167 ~~(2)(A)(v)(c)(2) In the request, the judge shall explain why the attorney will not~~  
168 ~~respond objectively to the survey. The judge shall explain why the attorney's behavior~~  
169 ~~has not subjected the attorney to sanction under the rules of procedure, contempt or~~  
170 ~~referral to the Bar.~~

171 ~~(2)(A)(v)(c)(3) If the Management Committee determines that the attorney will not~~  
172 ~~respond objectively to the survey, the Management Committee shall inform the Judicial~~  
173 ~~Council for ratification. If the Judicial Council ratifies the determination, the~~  
174 ~~Administrative Office of the Courts shall notify the Surveyor and the Surveyor shall~~  
175 ~~exclude the attorney from the judge's respondent pool. The determination applies only~~  
176 ~~to the pending attorney survey.~~

177 ~~(2)(A)(vi) Number of survey respondents. For each judge or commissioner who is~~  
178 ~~the subject of a survey, the The Surveyor shall identify 180 respondents or all attorneys~~  
179 ~~appearing before the judge or court commissioner whichever is less. All attorneys who~~  
180 ~~have appeared before the senior judge shall be sent a survey questionnaire as soon as~~  
181 ~~possible after the hearing.~~

182 ~~(2)(A)(vii) Factors in selecting respondents; response rate. In selecting respondents~~  
183 ~~from potential respondents, the Surveyor should first select attorneys with a trial~~  
184 ~~appearance and then attorneys with a greater number of appearances. The Surveyor~~  
185 ~~should limit to 12 the number of survey questionnaires to which an attorney is asked to~~

186 ~~respond. The Surveyor may balance these factors in assigning respondents to particular~~  
187 ~~judges or commissioners. The Surveyor should pursue a response rate of 70% or more~~  
188 ~~for each judge or commissioner. The goals of this paragraph are advisory and failure to~~  
189 ~~meet the goals shall not invalidate the survey.~~

190 ~~(2)(A)(viii)-(2)(A)(vi) Administration of the survey. Judges with a six-year term of~~  
191 ~~office shall be the subject of a survey in the fifth year of the term. Justices of the~~  
192 ~~Supreme Court shall be the subject of a survey in the ninth year of the term. Newly~~  
193 ~~appointed judges shall be the subject of a survey during their second year in office and,~~  
194 ~~at their option, prior to their initial retention election. Court C commissioners shall be the~~  
195 ~~subject of a survey approximately one year six months prior to the expiration of their~~  
196 ~~term of appointment office. Court commissioners shall be the subject of a survey during~~  
197 ~~the second year of each term of office. Newly appointed court commissioners shall be~~  
198 ~~the subject of a survey during the second year of their term of office and, at their option,~~  
199 ~~approximately six months prior to the expiration of their term of office.~~

200 ~~(2)(A)(vii) Survey report. The Surveyor shall provide to the subject of the survey, the~~  
201 ~~subject's presiding judge, and the Judicial Council the number and percentage of~~  
202 ~~respondents for each of the possible responses on each survey question and all~~  
203 ~~comments, retyped and edited as necessary to redact the respondent's identity.~~

204 ~~(2)(B) Survey of jurors. The Council shall measure satisfactory performance by a~~  
205 ~~survey of the jurors appearing before the judge during the preceding two years or such~~  
206 ~~shorter period for which the judge is being evaluated.~~

207 ~~(2)(B)(i) Survey responses. Each question will have four possible responses: Yes,~~  
208 ~~No, No Opinion, and No Opportunity to Observe. A note card on which the juror can~~  
209 ~~provide anonymous comments to the judge shall be attached to the survey~~  
210 ~~questionnaire.~~

211 ~~(2)(B)(ii) Survey scoring. The survey shall be scored as follows:~~

212 ~~(2)(B)(ii)(a) A favorable response is Yes.~~

213 ~~(2)(B)(ii)(b) Each question shall be scored by dividing the total number of Yes~~  
214 ~~responses by the total number of Yes plus No responses.~~

215 ~~(2)(B)(ii)(c) A satisfactory score for a question is achieved when the ratio of~~  
216 ~~favorable responses is 70% or greater.~~

217 ~~(2)(B)(ii)(d) A judge's performance is satisfactory if:~~

218 ~~(2)(B)(ii)(d)(1) At least 75% of the questions on the survey have a satisfactory score;~~

219 ~~and~~

220 ~~(2)(B)(ii)(d)(2) The Yes responses to all questions when divided by the total number~~  
221 ~~of Yes plus No responses to all questions is 70% or greater.~~

222 ~~(2)(B)(iii) Administration of the survey. All jurors rendering a verdict in a case and all~~  
223 ~~jurors, including alternate jurors, with at least three hours of trial time with the judge~~  
224 ~~shall have the opportunity to respond to the survey questionnaire.~~

225 ~~(2)(B)(iii)(a) For jurors rendering a verdict. While the jurors are waiting for court to~~  
226 ~~convene after declaring that they have reached a verdict, or as soon as possible after~~  
227 ~~the jury has been discharged, the bailiff or clerk in charge of the jury shall provide the~~  
228 ~~jurors with the evaluation questionnaires and comment note cards and two envelopes.~~  
229 ~~One envelope will be preprinted with the mailing address of the Surveyor; the other will~~  
230 ~~be preprinted with the name of the judge. The forms will instruct the jurors to place the~~  
231 ~~comment note cards in the envelope with the judge's name, to place the survey~~  
232 ~~questionnaires, completed and uncompleted, in the envelope with the Surveyor's name,~~  
233 ~~and to seal the envelopes. The bailiff or clerk shall deliver the sealed envelopes to the~~  
234 ~~respective addressees.~~

235 ~~(2)(B)(iii)(b) For jurors not rendering a verdict. If a juror or alternate juror is~~  
236 ~~discharged prior to rendering a verdict but after at least three hours of trial time with the~~  
237 ~~judge, the bailiff or clerk in charge of the jury shall administer the questionnaire to the~~  
238 ~~discharged juror in the same manner as in paragraph (a) above.~~

239 (2)(B) Survey of presiding judges and court staff. The Council shall measure  
240 performance of senior judges by a survey of all presiding judges and trial court  
241 executives of districts in which the senior judge has been assigned. The Administrative  
242 Office of the Courts shall distribute survey forms with instructions to return completed  
243 surveys to the Surveyor. The Surveyor shall provide to the subject of the survey, the  
244 subject's presiding judge, and the Judicial Council the number and percentage of  
245 respondents for each of the possible responses on each survey question and all  
246 comments, retyped and edited as necessary to redact the respondent's identity. The

247 Judicial Council shall determine whether the senior judge's survey scores are  
248 satisfactory.

249 (2)(C) Case under advisement standard. A case is considered to be under  
250 advisement when the entire case or any issue in the case has been submitted to the  
251 senior judge or court commissioner for final determination. The Council shall measure  
252 satisfactory performance by the self declaration of the senior judge or court  
253 commissioner or by reviewing the records of the court.

254 ~~(2)(C)(i) A justice of the Supreme Court demonstrates satisfactory performance by~~  
255 ~~circulating not more than an average of three principal opinions per calendar year more~~  
256 ~~than six months after submission with no more than half of the maximum exceptional~~  
257 ~~cases in any one calendar year.~~

258 ~~(2)(C)(ii) A judge of the Court of Appeals demonstrates satisfactory performance by:~~

259 ~~(2)(C)(ii)(a) circulating not more than an average of three principal opinions per~~  
260 ~~calendar year more than six months after submission with no more than half of the~~  
261 ~~maximum exceptional cases in any one calendar year; and~~

262 ~~(2)(C)(ii)(b) achieving a final average time to circulation of a principal opinion of not~~  
263 ~~more than 120 days after submission.~~

264 ~~(2)(C)(iii) A trial court~~ senior judge or court commissioner demonstrates satisfactory  
265 performance by holding:

266 ~~(2)(C)(iii)(a) (2)(C)(i)~~ not more than ~~an average of~~ three cases per calendar year  
267 under advisement more than ~~two months~~ 60 days after submission ~~with no more than~~  
268 ~~half of the maximum exceptional cases in any one calendar year; and~~

269 ~~(2)(C)(iii)(b) (2)(C)(ii)~~ no case under advisement more than ~~six months~~ 180 days  
270 after submission.

271 (2)(D) Compliance with education standards. Satisfactory performance is  
272 established if the senior judge or court commissioner annually ~~obtains 30 hours of~~  
273 complies with the judicial education standards of this Code, subject to the availability of  
274 in-state education programs. The Council shall measure satisfactory performance by  
275 the self declaration of the senior judge or court commissioner or by reviewing the  
276 records of the state court administrator.

277 (2)(E) Substantial compliance with Code of Judicial Conduct. Satisfactory  
278 performance is established if the response of the senior judge or court commissioner  
279 demonstrates substantial compliance with the Code of Judicial Conduct, if the Council  
280 finds the responsive information to be complete and correct and if the Council's review  
281 of formal and informal sanctions lead the Council to conclude the judge-court  
282 commissioner is in substantial compliance with the Code of Judicial Conduct. Under  
283 Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior  
284 judge from reappointment.

285 (2)(F) Physical and mental competence. Satisfactory performance is established if  
286 the response of the senior judge or court commissioner demonstrates physical and  
287 mental competence to serve in office and if the Council finds the responsive information  
288 to be complete and correct. The Council may request a statement by an examining  
289 physician.

290 ~~Rule 3-111.04. Evaluation and certification of judges and commissioners.~~

291 ~~Intent:~~

292 ~~To establish the procedures by which the Council will evaluate and certify judges for~~  
293 ~~retention election or reappointment.~~

294 ~~To establish the procedures by which the Council will evaluate and certify~~  
295 ~~commissioners for reappointment.~~

296 ~~Applicability:~~

297 ~~This rule shall apply to the Judicial Council and to the judges and commissioners of~~  
298 ~~the courts of record and courts not of record.~~

299 ~~Statement of the Rule:~~

300 ~~(1)(3)(A)~~ At its meeting in ~~December of odd-numbered years~~ August, the Council  
301 shall begin the process of determining whether the senior judges ~~subject to election at~~  
302 ~~the next general election and court commissioners whose terms of office expire that~~  
303 year meet the standards of performance provided for in this rule. The Administrative  
304 Office of the Courts shall assemble all evaluation information, including:

305 ~~(1)(A) attorney and juror~~ (3)(A)(i) survey scores;

306 ~~(1)(B)~~ (3)(A)(ii) judicial education records;

307 ~~(1)(C)~~ (3)(A)(iii) self declaration forms;

308 ~~(1)(D)-(3)(A)(iv)~~ records of formal and informal sanctions ~~by the Supreme Court~~; and  
309 ~~(1)(E)-(3)(A)(v)~~ any information requested by the Council.

310 ~~(2)(A)-(3)(B)~~ Prior to the meeting the Administrative Office of the Courts shall deliver  
311 the records to the Council and to the senior judges and court commissioners being  
312 evaluated.

313 ~~(2)(B)-(3)(C)~~ In a session closed in compliance with Rule 2-103, the Council shall  
314 consider the evaluation information and make a preliminary finding of whether a senior  
315 judge or court commissioner has met the performance standards ~~established by Rule 3-~~  
316 ~~111.03~~.

317 ~~(2)(C)-(3)(D)~~ If the Council finds the senior judge or court commissioner has met the  
318 performance standards, it is presumed the Council will certify the senior judge ~~be~~  
319 ~~retained in the general election or court commissioner for reappointment~~. If the Council  
320 finds the senior judge or court commissioner did not meet the performance standards, it  
321 is presumed the Council will not certify the senior judge ~~be retained in the general~~  
322 ~~election or court commissioner for reappointment~~. The Council may certify the senior  
323 judge ~~for retention election~~ or court commissioner or withhold decision until after  
324 meeting with the senior judge or court commissioner.

325 ~~(2)(D)-(3)(E)~~ A presumption against certification may be overcome by a showing of  
326 good cause to the contrary. A presumption in favor of certification may be overcome by:

327 ~~(2)(D)(i)-(3)(E)(i)~~ reliable information showing non-compliance with a performance  
328 standard; or

329 ~~(2)(D)(ii)-(3)(E)(ii)~~ formal or informal sanctions ~~by the Supreme Court~~ of sufficient  
330 gravity or number or both to demonstrate lack of substantial compliance with the Code  
331 of Judicial Conduct.

332 (3)(F) At the request of the Council the senior judge or court commissioner shall  
333 meet with the Council in ~~January~~ September. At the request of the Council the presiding  
334 judge ~~and other reviewing judge~~ shall report to the Council any meetings held with the  
335 subject senior judge or court commissioner, the steps toward self improvement  
336 identified as a result of those meetings, and the efforts to complete those steps. Not  
337 later than 5 days after the ~~December~~ August meeting, the Administrative Office of the  
338 Courts shall deliver to the senior judge or court commissioner being evaluated notice of

339 the Council's action and any records not already delivered to the senior judge or court  
340 commissioner. ~~If the judge is to meet with the Council, the~~ The notice shall contain an  
341 adequate description of the reasons the Council has withheld its decision and the date  
342 by which the senior judge or court commissioner is to deliver written materials. The  
343 Administrative Office of the Courts shall deliver copies of all materials to the Council and  
344 to the senior judge or court commissioner prior to the January-September meeting.

345 ~~(4)(A)-(3)(G)~~ At its January-September meeting in a session closed in accordance  
346 with Rule 2-103, the Council shall provide to the senior judge or court commissioner  
347 adequate time to present evidence and arguments in favor of certification. Any member  
348 of the Council may present evidence and arguments of which the senior judge or court  
349 commissioner has had notice opposed to certification. The burden is on the person  
350 arguing against the presumed certification. The Council may determine the order of  
351 presentation. ~~The Council may continue the closed meeting with the judge to the~~  
352 February Council meeting.

353 ~~(4)(B)-(3)(H)~~ At its January or February-September meeting in open session, the  
354 Council shall approve its final findings and certification regarding all senior judges  
355 standing for retention election at the next general election and court commissioners  
356 whose terms of office expire that year.

357 ~~(5) Between the date of certification and the next general election, the Chief Justice~~  
358 ~~shall notify the Judicial Council of any order of sanction entered by the Supreme Court~~  
359 ~~against a judge certified by the Council.~~

360 ~~(6) Between the date of certification and the next general election, a member of the~~  
361 ~~Judicial Council voting in the majority may move to reconsider the certification of a~~  
362 ~~judge and present to the Council facts material to certification occurring before or since~~  
363 ~~certification, which, if known at the time of certification, may have led to a contrary~~  
364 ~~result. If the motion to reconsider passes, the Council shall notify and meet with the~~  
365 ~~judge in like manner to the notification and meeting under paragraphs (3) and (4) of this~~  
366 ~~rule. After the meeting the Council shall decide in open session whether to certify the~~  
367 ~~judge. If the Council changes its original certification decision, it shall use the most~~  
368 ~~effective means available to publish its final decision.~~

369 ~~(7) The Council shall approve the statements and descriptions required by §20A-7-~~  
370 ~~702 for the voter information pamphlet. The judge may review and edit the biographical~~  
371 ~~summary. The Administrative Office of the Courts shall promptly deliver the approved~~  
372 ~~statement regarding a judge to the judge and shall deliver the approved statement~~  
373 ~~regarding all judges to the Lt. Governor no later than August 1. Upon delivery to the Lt.~~  
374 ~~Governor, the Administrative Office of the Courts shall publish the statement regarding~~  
375 ~~all judges on the Internet.~~

376 ~~(8) For municipal justice court judges, the Council shall use the same evaluation~~  
377 ~~process as for judges of the courts of record, but the process shall begin in December~~  
378 ~~of even numbered years, approximately 14 months prior to the expiration of the~~  
379 ~~municipal judges' terms of office. The Administrative Office of the Courts shall deliver a~~  
380 ~~statement similar in content and purpose to the one described in §20A-7-702 to the~~  
381 ~~respective judges and to the Mayor of the judges' jurisdictions no later than August 1~~  
382 ~~prior to the expiration of the municipal judges' terms of office. The Administrative Office~~  
383 ~~of the Courts shall publish the statements on the Internet.~~

384 ~~(9) For commissioners, the Council shall use the same evaluation process as for~~  
385 ~~judges, but the Council may remove the commissioner upon the same grounds and~~  
386 ~~statement of reasons for which it could certify a judge not be retained. The timing of~~  
387 ~~meetings shall be such as to conclude all steps at least 60 days prior to expiration of the~~  
388 ~~commissioner's term of office. The Administrative Office of the Courts shall notify the~~  
389 ~~commissioner of the dates of all events and meetings. The Administrative Office of the~~  
390 ~~Courts shall promptly notify the presiding judge of the Council's finding, certification and~~  
391 ~~statement of reasons.~~

392 (3)(l) The Judicial Council shall communicate its certification decision to the senior  
393 judge or court commissioner. The Judicial Council shall communicate its certification  
394 decision for senior judges to the Supreme Court and for court commissioners to the  
395 presiding judge of the district the commissioner serves.

396