

1 **Rule 3-201. Court commissioners.**

2 Intent:

3 To define the role of court commissioner.

4 To establish a term of office for court commissioners.

5 To establish uniform administrative policies governing the qualifications, appointment, supervision,
6 discipline and removal of court commissioners.

7 To establish uniform administrative policies governing the salaries, benefits and privileges of the
8 office of court commissioner.

9 Applicability:

10 This rule shall apply to all trial courts of record.

11 Statement of the Rule:

12 (1) Definition. Court commissioners are quasi-judicial officers established by the Utah Code.

13 (2) Qualifications.

14 (A) Court commissioners must be at least 25 years of age, United States citizens, Utah residents for
15 three years preceding appointment and residents of Utah while serving as commissioners. A court
16 commissioner shall reside in a judicial district the commissioner serves.

17 (B) Court commissioners must be admitted to practice law in Utah and exhibit good character. Court
18 commissioners must possess ability and experience in the areas of law in which the court commissioner
19 serves.

20 (C) Court commissioners shall serve full time and shall comply with Utah Code Section 78A-2-221.

21 (3) Appointment - Oath of office.

22 (A) Selection of court commissioners shall be based solely upon consideration of fitness for office.

23 (B) When a vacancy occurs or is about to occur in the office of a court commissioner, the Council
24 shall determine whether to fill the vacancy. The Council may determine that the court commissioner will
25 serve more than one judicial district.

26 (C) A committee for the purpose of nominating candidates for the position of court commissioner shall
27 consist of one judge from each court that the commissioner will serve, three lawyers, and two members of
28 the public. Committee members shall be appointed by the presiding judge of the district court of each
29 judicial district. The committee members shall serve three year terms, staggered so that not more than
30 one term of a member of the bench, bar, or public expires during the same calendar year. The presiding
31 judge shall designate a chair of the committee. All members of the committee shall reside in the judicial
32 district. All members of the committee shall be voting members. A quorum of one-half the committee
33 members is necessary for the committee to act. The committee shall act by the concurrence of a majority
34 of the members voting. When voting upon the qualifications of a candidate, the committee shall follow the
35 voting procedures of the judicial nominating commissions.

36 (D) If the commissioner will serve more than one judicial district, the presiding judges of the districts
37 involved shall select representatives from each district's nominating committee to form a joint nominating
38 committee with a size and composition equivalent to that of a district committee.

39 (E) No member of the committee may vote upon the qualifications of any candidate who is the spouse
40 of that committee member or is related to that committee member within the third degree of relationship.
41 No member of the committee may vote upon the qualifications of a candidate who is associated with that
42 committee member in the practice of law. The committee member shall declare to the committee any
43 other potential conflict of interest between that member and any candidate as soon as the member
44 becomes aware of the potential conflict of interest. The committee shall determine whether the potential
45 conflict of interest will preclude the member from voting upon the qualifications of any candidate. The
46 committee shall record all declarations of potential conflicts of interest and the decision of the committee
47 upon the issue.

48 (F) The administrative office of the courts shall advertise for qualified applicants and shall remove
49 from consideration those applicants who do not meet minimum qualifications of age, citizenship,
50 residency, and admission to the practice of law. The administrative office of the courts shall develop
51 uniform guidelines for the application process for court commissioners.

52 (G) The nominating committee shall review the applications of qualified applicants and may
53 investigate the qualifications of applicants to its satisfaction. The committee shall interview selected
54 applicants and select the three best qualified candidates. The committee shall receive public comment on
55 those candidates as provided in paragraph (4).

56 (H) When the public comment period has closed, the comments shall go to the nominating
57 committee. If any comments would negatively affect the committee's decision on whether to recommend
58 a candidate, the candidate shall be given notice and an opportunity to respond to the comments. If the
59 committee decides not to recommend a candidate based on the comments, the committee shall select
60 another candidate from the interviewed applicants and again receive public comment on the candidates
61 as provided in paragraph (4).

62 (I) The chair of the nominating committee shall present the names, applications, and the results of
63 background investigations of the nominees to the judges of the courts the court commissioner will serve.
64 The committee may indicate its order of preference.

65 (HJ) The judges of the courts the court commissioner will serve shall select one of the nominees by a
66 concurrence of a majority of judges voting. The concurrence of each court independent of the others is
67 necessary for selection.

68 (IK) The presiding judge of the district court of the district the court commissioner will primarily serve
69 shall present the name of the selected candidate to the Council. The selection shall be final upon the
70 concurrence of two-thirds of the members of the Council. The Council shall vote upon the selection within
71 45 days of the selection or the concurrence of the Council shall be deemed granted.

72 (JL) If the Council does not concur in the selection, the judges of the district may select another of the
73 nominees or a new nominating process will be commenced.

74 (KM) The appointment shall be effective upon the court commissioner taking and subscribing to the
75 oath of office required by the Utah Constitution and taking any other steps necessary to qualify for office.
76 The court commissioner shall qualify for office within 45 days after the concurrence by the Council.

77 (4) Public comment for appointment and retention.

78 (A) Final candidates for appointment and court commissioners who are up for retention shall be
79 subject to public comment.

80 (B) For final candidates, the nominating committee shall be responsible for giving notice of the public
81 comment period.

82 (C) For court commissioners, the district in which the commissioner serves shall be responsible for
83 giving notice of the public comment period.

84 (D) The nominating committee or district in which the commissioner serves shall:

85 (i) email notice to each active member of the Utah State Bar including the names of the nominees or
86 court commissioner with instructions on how to submit comments;

87 (ii) publish the names of the nominees or court commissioner with instructions on how to submit
88 comments in a newspaper of general circulation; and

89 (iii) allow at least 10 days for public comment.

90 (E) Individuals who comment on the nominees or commissioners should be encouraged, but not
91 required, to provide their names and contact information.

92 (F) The comments are classified as protected court records and shall not be made available to the
93 public.

94 (45) Term of office. The court commissioner shall be appointed until December 31 of the third year
95 following concurrence by the Council. At the conclusion of the first term of office and each subsequent
96 term, the court commissioner shall be retained for a term of four years unless the judges of the courts the
97 commissioner serves remove the commissioner in accordance with paragraph (6)(C). The term of office
98 of court commissioners holding office on April 1, 2011 shall end December 31 of the year in which their
99 term would have ended under the former rule.

100 (5) Performance evaluation and public comments.

101 (A) The presiding judge of the district shall prepare an evaluation of the commissioner's performance
102 on an annual basis, on forms provided by the administrative office. The presiding judge shall provide
103 copies of the evaluation to the Judicial Council. A copy of the performance plan and any subsequent
104 evaluation shall be maintained in the official personnel file in the administrative office. Court
105 commissioners shall comply with the program for judicial performance evaluation, including any
106 recommendations made in the evaluation.

107 (B) When the public comment period has closed, the comments shall go to the presiding judge in the
108 district in which the commissioner serves. If any comments would negatively affect the presiding judge's

109 decision on whether to discipline or remove the commissioner from office, the commissioner shall be
110 given notice and an opportunity to respond to the comments.

111 (6) Removal and sanctions.

112 (A) If the commissioner's performance is not satisfactory, the presiding judge, with the concurrence of
113 the judges of that jurisdiction, may discipline the commissioner or remove the commissioner from office. If
114 the commissioner disagrees with the presiding judge's decision, the commissioner may request a review
115 of the decision by the Management Committee of the Council.

116 (B) The court commissioner may be removed by the Council:

117 (i) as part of a reduction in force;

118 (ii) for failure to meet the evaluation and certification requirements; or

119 (iii) as the result of a formal complaint filed under CJA Rule 3-201.02 upon the concurrence of two-
120 thirds of the Council.

121 (C) The court commissioner may be removed without cause by the judges of the courts the
122 commissioner serves at the conclusion of a term of office. Removal under this paragraph shall be by the
123 concurrence of a majority of all judges of the courts the commissioner serves. A decision to remove a
124 commissioner under this paragraph shall be communicated to the commissioner within a reasonable time
125 after the decision is made, and not less than 30 days prior to termination.

126 (D) The court commissioner may be sanctioned by the Council as the result of a formal complaint or
127 by the presiding judge or judges of the courts the commissioner serves. Sanctions may include but are
128 not limited to private or public censure, restrictions in case assignments, mandatory remedial education,
129 suspension for a period not to exceed 60 days, and reduction in salary.

130 (7) Salaries and benefits.

131 (A) The Council shall annually establish the salary of court commissioners. In determining the salary
132 of the court commissioners, the Council shall consider the effect of any salary increase for judges
133 authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary
134 of a commissioner shall not be reduced during the commissioner's tenure.

135 (B) Court commissioners shall receive annual leave of 20 days per calendar year and the same sick
136 leave benefits as judges of the courts of record. Annual leave not used at the end of the calendar year
137 shall not accrue to the following year. A commissioner hired part way through the year shall receive
138 annual leave on a pro-rated basis. Court commissioners shall receive the same retirement benefits as
139 non-judicial officers employed in the judicial branch.

140 (8) Support services.

141 (A) Court commissioners shall be provided with support personnel, equipment, and supplies
142 necessary to carry out the duties of the office as determined by the presiding judge.

143 (B) Court commissioners are responsible for requesting necessary support services from the
144 presiding judge.