

Rule 3-201.

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,
6 appointment, supervision, discipline and removal of court commissioners.

7 To establish uniform administrative policies governing the salaries, benefits and
8 privileges of the 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
13 Utah Code.

14 (2) Qualifications.

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

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

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

24 (3) Appointment - Oath of office.

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

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

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

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

46 (E) No member of the committee may vote upon the qualifications of any candidate
47 who is the spouse of that committee member or is related to that committee member
48 within the third degree of relationship. No member of the committee may vote upon the
49 qualifications of a candidate who is associated with that committee member in the
50 practice of law. The committee member shall declare to the committee any other
51 potential conflict of interest between that member and any candidate as soon as the
52 member becomes aware of the potential conflict of interest. The committee shall
53 determine whether the potential conflict of interest will preclude the member from voting
54 upon the qualifications of any candidate. The committee shall record all declarations of
55 potential conflicts of interest and the decision of the committee upon the issue.

56 (F) The administrative office of the courts shall advertise for qualified applicants and
57 shall remove from consideration those applicants who do not meet minimum
58 qualifications of age, citizenship, residency, and admission to the practice of law. The

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59 administrative office of the courts shall develop uniform guidelines for the application
60 process for court commissioners.

61 (G) The nominating committee shall review the applications of qualified applicants
62 and may investigate the qualifications of applicants to its satisfaction. The committee
63 shall interview selected applicants and select the three best qualified candidates. The
64 committee may indicate its order of preference. The chair of the committee shall present
65 the names, applications, and the results of background investigations of the nominees
66 to the judges of the courts the court commissioner will serve.

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

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

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

77 (K) The appointment shall be effective upon the court commissioner taking and
78 subscribing to the oath of office required by the Utah Constitution and taking any other
79 steps necessary to qualify for office. The court commissioner shall qualify for office
80 within 45 days after the concurrence by the Council.

81 (4) Term of office. The court commissioner shall be appointed until December 31 of
82 the third year following concurrence by the Council. At the conclusion of the first term of
83 office and each subsequent term, the court commissioner shall be retained for a term of
84 four years unless the judges of the courts the commissioner serves remove the
85 commissioner in accordance with paragraph (6)(B). The term of office of court
86 commissioners holding office on April 1, 2011 shall end December 31 of the year in
87 which their term would have ended under the former rule.

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88 (5) Performance evaluation. The presiding judge ~~or judges of the district shall~~
89 ~~develop a performance plan for the court commissioner and~~ shall prepare an evaluation
90 of the commissioner's performance on an annual basis, on forms provided by the
91 administrative office. The presiding judge shall provide copies of the evaluation to the
92 Judicial Council. A copy of the performance plan and any subsequent evaluation shall
93 be maintained in the official personnel file in the administrative office. Court
94 commissioners shall comply with the program for judicial performance evaluation,
95 including any recommendations made in the evaluation.

96 (6) Removal and sanctions.

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

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

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

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

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

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

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

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118 (7) Salaries and benefits.

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

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

130 (8) Support services.

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

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