

1 **Rule 3-104. Presiding judges.**

2 Intent:

3 To establish the procedure for election, term of office, role, responsibilities
4 and authority of presiding judges and associate presiding judges.

5 Applicability:

6 This rule shall apply to presiding judges and associate presiding judges in
7 the District and Juvenile Courts.

8 Statement of the Rule:

9 (1) Election and term of office.

10 (1)(A) Presiding judge. The presiding judge in multi-judge courts shall be
11 elected by a majority vote of the judges of the court. The presiding judge's
12 term of office shall be at least two years. A district, by majority vote of the
13 judges of the court, may re-elect a judge to serve successive terms of office
14 as presiding judge. In the event that a majority vote cannot be obtained, the
15 presiding judge shall be appointed by the presiding officer of the Council to
16 serve for two years.

17 (1)(B) Associate presiding judge.

18 (1)(B)(i) In a court having more than two judges, the judges may elect one
19 judge of the court to the office of associate presiding judge. An associate
20 presiding judge shall be elected in the same manner and serve the same term
21 as the presiding judge in paragraph (1)(A).

22 (1)(B)(ii) When the presiding judge is unavailable, the associate presiding
23 judge shall assume the responsibilities of the presiding judge. The associate
24 presiding judge shall perform other duties assigned by the presiding judge or
25 by the court.

26 (1)(C) A presiding judge or associate presiding judge may be removed as
27 the presiding judge or associate presiding judge by a two-thirds vote of all

28 judges in the district. A successor presiding judge or associate presiding judge
29 shall then be selected as provided in this rule.

30 (2) Court organization.

31 (2)(A) Court en banc.

32 (2)(A)(i) Multi-judge courts shall have regular court en banc meetings,
33 including all judges of the court and the court executive, to discuss and decide
34 court business. The presiding judge has the discretion to excuse the
35 attendance of the court executive from court en banc meetings called for the
36 purpose of discussing the performance of the court executive. In single-judge
37 courts, the judge shall meet with the court executive to discuss and decide
38 court business.

39 (2)(A)(ii) The presiding judge shall call and preside over court meetings. If
40 neither the presiding judge nor associate presiding judge, if any, is present,
41 the presiding judge's designee shall preside.

42 (2)(A)(iii) Each court shall have a minimum of four meetings each year.

43 (2)(A)(iv) An agenda shall be circulated among the judges in advance of
44 the meeting with a known method on how matters may be placed on the
45 agenda.

46 (2)(A)(v) In addition to regular court en banc meetings, the presiding judge
47 or a majority of the judges may call additional meetings as necessary.

48 (2)(A)(vi) Minutes of each meeting shall be taken and preserved.

49 (2)(A)(vii) Other than judges and court executives, those attending the
50 meeting shall be by court invitation only.

51 (2)(A)(viii) The issues on which judges should vote shall be left to the
52 sound discretion and judgment of each court and the applicable sections of
53 the Utah Constitution, statutes, and this Code.

54 (2)(B) Absence of presiding judge. When the presiding judge and the
55 associate presiding judge, if any, are absent from the court, an acting
56 presiding judge shall be appointed. The method of designating an acting
57 presiding judge shall be at the discretion of the presiding judge. All parties that
58 must necessarily be informed shall be notified of the judge acting as presiding
59 judge.

60 (3) Administrative responsibilities and authority of presiding judge.

61 (3)(A)(i) Generally. The presiding judge is charged with the responsibility
62 for the effective operation of the court. He or she is responsible for the
63 implementation and enforcement of statutes, rules, policies and directives of
64 the Council as they pertain to the administration of the courts, orders of the
65 court en banc and supplementary rules. The presiding judge has the authority
66 to delegate the performance of non-judicial duties to the court executive.
67 When the presiding judge acts within the scope of these responsibilities, the
68 presiding judge is acting within the judge's judicial office.

69 (3)(A)(ii) Caseload. Unless the presiding judge determines it to be
70 impractical, there is a presumption that the judicial caseload of the presiding
71 judge shall be adjusted to provide the presiding judge sufficient time to devote
72 to the management and administrative duties of the office. The extent of the
73 caseload reduction shall be determined by each district.

74 (3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief
75 Justice or Judicial Council to review any administrative decision made by the
76 presiding judge of that district.

77 (3)(B) Coordination of judicial schedules.

78 (3)(B)(i) The presiding judge shall be aware of the vacation and education
79 schedules of judges and be responsible for an orderly plan of judicial
80 absences from court duties.

81 (3)(B)(ii) Each judge shall give reasonable advance notice of his or her
82 absence to the presiding judge consistent with Rule 3-103(4).

83 (3)(C) Court committees. The presiding judge shall, where appropriate,
84 make use of court committees composed of other judges and court personnel
85 to investigate problem areas, handle court business and report to the
86 presiding judge and/or the court en banc.

87 (3)(D) Outside agencies and the media.

88 (3)(D)(i) The presiding judge or court executive shall be available to meet
89 with outside agencies, such as the prosecuting attorney, the city attorney,
90 public defender, sheriff, police chief, bar association leaders, probation and
91 parole officers, county governmental officials, civic organizations and other
92 state agencies. The presiding judge shall be the primary representative of the
93 court.

94 (3)(D)(ii) Generally, the presiding judge or, at the discretion of the presiding
95 judge, the court executive shall represent the court and make statements to
96 the media on matters pertaining to the total court and provide general
97 information about the court and the law, and about court procedures, practices
98 and rulings where ethics permit.

99 (3)(E) Docket management and case and judge assignments.

100 (3)(E)(i) The presiding judge shall monitor the status of the dockets in the
101 court and implement improved methods and systems of managing dockets.

102 (3)(E)(ii) The presiding judge shall assign cases and judges in accordance
103 with supplemental court rules to provide for an equitable distribution of the
104 workload and the prompt disposition of cases.

105 (3)(E)(iii) Individual judges of the court shall convey needs for assistance to
106 the presiding judge. The presiding judge shall, through the Administrative

107 Office, request assistance of visiting judges or other appropriate resources
108 when needed to handle the workload of the court.

109 (3)(E)(iv) The presiding judge shall discuss problems of delay with other
110 judges and offer necessary assistance to expedite the disposition of cases.

111 (3)(F) Court executives.

112 (3)(F)(i) The presiding judge shall review the proposed appointment of the
113 court executive made by the state court administrator and must concur in the
114 appointment before it can be effected. The presiding judge shall obtain the
115 approval of a majority of the judges in that jurisdiction prior to concurring in the
116 appointment of a court executive.

117 (3)(F)(ii) The presiding judge for the respective court level and the state
118 level administrator shall jointly develop an annual performance plan for the
119 court executive.

120 (3)(F)(iii) Annually, the state level administrator shall consult with the
121 presiding judge in the preparation of an evaluation of the court executive's
122 performance for the previous year, also taking into account input from all
123 judges in the district.

124 (3)(F)(iv) The presiding judge shall be aware of the day-to-day activities of
125 the court executive, including coordination of annual leave.

126 (3)(F)(v) Pursuant to Council policy and the direction of the state level
127 administrator, the court executive has the responsibility for the day-to-day
128 supervision of the non-judicial support staff and the non-judicial administration
129 of the court. The presiding judge, in consultation with the judges of the
130 jurisdiction, shall coordinate with the court executive on matters concerning
131 the support staff and the general administration of the court including budget,
132 facility planning, long-range planning, administrative projects,

133 intergovernmental relations and other administrative responsibilities as
134 determined by the presiding judge and the state level administrator.

135 (3)(G) Courtrooms and facilities. The presiding judge shall direct the
136 assignment of courtrooms and facilities.

137 (3)(H) Recordkeeping. Consistently with Council policies, the court
138 executive, in consultation with the presiding judge, shall:

139 (3)(H)(i) coordinate the compilation of management and statistical
140 information necessary for the administration of the court;

141 (3)(H)(ii) establish policies and procedures and ensure that court personnel
142 are advised and aware of these policies;

143 (3)(H)(iii) approve proposals for automation within the court in compliance
144 with administrative rules.

145 (3)(I) Budgets. The court executive, in consultation with the presiding
146 judge, shall oversee the development of the budget for the court. In contact
147 sites, the court executive shall supervise the preparation and management of
148 the county budget for the court on an annual basis and in accordance with the
149 Utah Code.

150 (3)(J) Judicial officers. In the event that another judge or commissioner of
151 the court fails to comply with a reasonable administrative directive of the
152 presiding judge, interferes with the effective operation of the court, abuses his
153 or her judicial position, exhibits signs of impairment or violates the Code of
154 Judicial Conduct, the presiding judge may:

155 (3)(J)(i) Meet with and explain to the judge or commissioner the reasons for
156 the directive given or the position taken and consult with the judge or
157 commissioner.

158 (3)(J)(ii) Discuss the position with other judges and reevaluate the position.

159 (3)(J)(iii) Present the problem to the court en banc or a committee of
160 judges for input.

161 (3)(J)(iv) Require the judge or commissioner to participate in appropriate
162 counseling, therapy, education or treatment.

163 (3)(J)(v) Reassign the judge or commissioner to a different location within
164 the district or to a different case assignment.

165 (3)(J)(vi) Refer the problem to a the Judicial Council or to the Chief Justice.

166 (3)(J)(vii) In the event that the options listed above in subsections (i)
167 through (vi) do not resolve the problem and where the refusal or conduct is
168 willful, continual, and the presiding judge believes the conduct constitutes a
169 violation of the Code of Judicial Conduct, the presiding judge shall refer the
170 problem to the Council or the Judicial Conduct Commission.

171 (3)(K) Cases under advisement.

172 (3)(K)(i) A case is considered to be under advisement when the entire case
173 or any issue in the case has been submitted to the judge for final
174 determination. The final determination occurs when the judge resolves the
175 pending issue by announcing the decision on the record or by issuing a
176 written decision, regardless of whether the parties are required to
177 subsequently submit for the judge's signature a final order memorializing the
178 decision.

179 (3)(K)(ii) Once a month each judge shall submit a statement on a form to
180 be provided by the Administrative Office notifying the presiding judge of any
181 cases or issues held under advisement for more than two months and the
182 reason why the case or issue continues to be held under advisement.

183 (3)(K)(iii) Once a month, the presiding judge shall submit a list of the cases
184 or issues held under advisement for more than two months to the appropriate

185 state level administrator and indicate the reasons why the case or issue
186 continues to be held under advisement.

187 (3)(K)(iv) If a case or issue is held under advisement for an additional 30
188 days, the state level administrator shall report that fact to the Council.

189 (3)(L) Board of judges. The presiding judge shall serve as a liaison
190 between the court and the Board for the respective court level.

191 (3)(M) Supervision and evaluation of court commissioners. The presiding
192 judge is responsible for the development of a performance plan for the Court
193 Commissioner serving in that court and shall prepare an evaluation of the
194 Commissioner's performance on an annual basis. A copy of the performance
195 plan and evaluation shall be maintained in the official personnel file in the
196 Administrative Office.