

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

2 **Intent:**

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

5 **Applicability:**

6 This rule shall apply to presiding judges and associate presiding judges in the District and  
7 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 elected by a  
11 majority vote of the judges of the court. The presiding judge's term of office shall  
12 be at least two years. A district, by majority vote of the judges of the court, may  
13 re-elect a judge to serve successive terms of office as presiding judge. In the  
14 event that a majority vote cannot be obtained, the presiding judge shall be  
15 appointed by the presiding officer of the Council to serve for two years.

16 (1)(B) **Associate presiding judge.**

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

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

25 (1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the  
26 presiding judge or associate presiding judge by a two-thirds vote of all judges in  
27 the district. A successor presiding judge or associate presiding judge shall then  
28 be selected as provided in this rule.

29 (2) **Court organization.**

30 (2)(A) **Court en banc.**

- 31 (2)(A)(i) Multi-judge courts shall have regular court en banc meetings,  
32 including all judges of the court and the court executive, to discuss  
33 and decide court business. The presiding judge has the discretion to  
34 excuse the attendance of the court executive from court en banc  
35 meetings called for the purpose of discussing the performance of the  
36 court executive. In single-judge courts, the judge shall meet with the  
37 court executive to discuss and decide court business.
- 38 (2)(A)(ii) The presiding judge shall call and preside over court meetings. If  
39 neither the presiding judge nor associate presiding judge, if any, is  
40 present, the presiding judge's designee shall preside.
- 41 (2)(A)(iii) Each court shall have a minimum of four meetings each year.
- 42 (2)(A)(iv) An agenda shall be circulated among the judges in advance of the  
43 meeting with a known method on how matters may be placed on the  
44 agenda.
- 45 (2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a  
46 majority of the judges may call additional meetings as necessary.
- 47 (2)(A)(vi) Minutes of each meeting shall be taken and preserved.
- 48 (2)(A)(vii) Other than judges and court executives, those attending the meeting  
49 shall be by court invitation only.
- 50 (2)(A)(viii) The issues on which judges should vote shall be left to the sound  
51 discretion and judgment of each court and the applicable sections of  
52 the Utah Constitution, statutes, and this Code.
- 53 (2)(B) Absence of presiding judge. When the presiding judge and the associate  
54 presiding judge, if any, are absent from the court, an acting presiding judge shall  
55 be appointed. The method of designating an acting presiding judge shall be at  
56 the discretion of the presiding judge. All parties that must necessarily be informed  
57 shall be notified of the judge acting as presiding judge.
- 58 (3) **Administrative responsibilities and authority of presiding judge.**
- 59 (3)(A) **Generally.**
- 60 (3)(A)(i) The presiding judge is charged with the responsibility for the effective  
61 operation of the court. He or she is responsible for the implementation  
62 and enforcement of statutes, rules, policies and directives of the  
63 Council as they pertain to the administration of the courts, orders of  
64 the court en banc, and supplementary rules. The presiding judge has

65 the authority to delegate the performance of non-judicial duties to the  
66 court executive. When the presiding judge acts within the scope of  
67 these responsibilities, the presiding judge is acting within the judge's  
68 judicial office.

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

74 (3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or  
75 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) **Authority to appoint senior judges.**

84 (3)(C)(i) The presiding judge is authorized to use senior judge coverage for up  
85 to 14 judicial days if a judicial position is vacant or if a judge is absent  
86 due to illness, accident, or disability. Before assigning a senior judge,  
87 the presiding judge will consider the priorities for requesting judicial  
88 assistance established in Rule 3-108. The presiding judge may not  
89 assign a senior judge beyond the limits established in Rule 11-201(6).

90 (3)(C)(ii) The presiding judge will notify the State Court Administrator when a  
91 senior judge assignment has been made.

92 (3)(C)(iii) If more than 14 judicial days of coverage will be required, the  
93 presiding judge will promptly present to the State Court Administrator  
94 a plan for meeting the needs of the court for the anticipated duration  
95 of the vacancy or absence and a budget to implement that plan. The  
96 plan should describe the calendars to be covered by judges of the  
97 district, judges of other districts, and senior judges. The budget should

- 98 estimate the funds needed for travel by judges and for time and travel  
99 by senior judges.
- 100 (3)(C)(iv) If any part of the proposed plan is contested by the State Court  
101 Administrator, the plan will be reviewed by the Management  
102 Committee of the Judicial Council for final determination.
- 103 (3)(D) **Court committees.** The presiding judge shall, where appropriate, make use of  
104 court committees composed of other judges and court personnel to investigate  
105 problem areas, handle court business and report to the presiding judge and/or  
106 the court en banc.
- 107 (3)(E) **Outside agencies and the media.**
- 108 (3)(E)(i) The presiding judge or court executive shall be available to meet with  
109 outside agencies, such as the prosecuting attorney, the city attorney,  
110 public defender, sheriff, police chief, bar association leaders,  
111 probation and parole officers, county governmental officials, civic  
112 organizations and other state agencies. The presiding judge shall be  
113 the primary representative of the court.
- 114 (3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding  
115 judge, the court executive shall represent the court and make  
116 statements to the media on matters pertaining to the ~~total~~ court and  
117 provide general information about the court and the law, and about  
118 court procedures, practices and rulings where ethics permit.
- 119 (3)(F) **Docket management and case and judge assignments.**
- 120 (3)(F)(i) The presiding judge shall monitor the status of the dockets in the court  
121 and implement improved methods and systems of managing dockets.
- 122 (3)(F)(ii) The presiding judge shall assign cases and judges in accordance with  
123 supplemental court rules to provide for an equitable distribution of the  
124 workload and the prompt disposition of cases.
- 125 (3)(F)(iii) Individual judges of the court shall convey needs for assistance to the  
126 presiding judge. The presiding judge shall, through the State Court  
127 Administrator, request assistance of visiting judges or other  
128 appropriate resources when needed to handle the workload of the  
129 court.
- 130 (3)(F)(iv) The presiding judge shall discuss problems of delay with other judges  
131 and offer necessary assistance to expedite the disposition of cases.



165 (3)(I)(iii) approve proposals for automation within the court in compliance with  
166 administrative rules.

167 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall  
168 oversee the development of the budget for the court. In contract sites, the court  
169 executive shall supervise the preparation and management of the county budget  
170 for the court on an annual basis and in accordance with the Utah Code.

171 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court  
172 fails to comply with a reasonable administrative directive of the presiding judge,  
173 interferes with the effective operation of the court, abuses his or her judicial  
174 position, exhibits signs of impairment or violates the Code of Judicial Conduct,  
175 the presiding judge may:

176 (3)(K)(i) Meet with and explain to the judge or commissioner the reasons for  
177 the directive given or the position taken and consult with the judge or  
178 commissioner.

179 (3)(K)(ii) Discuss the position with other judges and reevaluate the position.

180 (3)(K)(iii) Present the problem to the court en banc or a committee of judges for  
181 input.

182 (3)(K)(iv) Require the judge or commissioner to participate in appropriate  
183 counseling, therapy, education or treatment.

184 (3)(K)(v) Reassign the judge or commissioner to a different location within the  
185 district or to a different case assignment.

186 (3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

187 (3)(K)(vii) In the event that the options listed above in subsections (i) through (vi)  
188 do not resolve the problem and where the refusal or conduct is willful,  
189 continual, and the presiding judge believes the conduct constitutes a  
190 violation of the Code of Judicial Conduct, the presiding judge shall  
191 refer the problem to the Council or the Judicial Conduct Commission.

192 (3)(L) **Cases under advisement.**

193 (3)(L)(i) A case is considered to be under advisement when the entire case or  
194 any issue in the case has been submitted to the judge for final  
195 determination. The final determination occurs when the judge resolves  
196 the pending issue by announcing the decision on the record or by  
197 issuing a written decision, regardless of whether the parties are

- 198 required to subsequently submit for the judge's signature a final order  
199 memorializing the decision.
- 200 (3)(L)(ii) Once a month each judge shall submit a statement on a form to be  
201 provided by the State Court Administrator notifying the presiding judge  
202 of any cases or issues held under advisement for more than two  
203 months and the reason why the case or issue continues to be held  
204 under advisement.
- 205 (3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or  
206 issues held under advisement for more than two months to the  
207 appropriate state level administrator and indicate the reasons why the  
208 case or issue continues to be held under advisement.
- 209 (3)(L)(iv) If a case or issue is held under advisement for an additional 30 days,  
210 the state level administrator shall report that fact to the Council.
- 211 (3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court  
212 and the Board for the respective court level.
- 213 (3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is  
214 responsible for the development of a performance plan for the Court  
215 Commissioner serving in that court and shall prepare an evaluation of the  
216 Commissioner's performance on an annual basis. A copy of the performance  
217 plan and evaluation shall be maintained in the official personnel file in the  
218 Administrative Office.
- 219 (3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with  
220 the presiding judge in the justice court of that judicial district and the justice court  
221 administrator to develop a rotation of magistrates that ensures regular availability  
222 of magistrates within the district. The rotation shall take into account each  
223 magistrate's caseload, location, and willingness to serve.