

1 **Rule 3-101. Judicial performance standards.**

2 **Intent**

3 ~~To establish standards of performance for application by the Judicial Performance~~
4 ~~Evaluation Commission.~~ To establish performance standards upon which the Judicial Council
5 will certify judicial compliance to the Judicial Performance Evaluation Commission (“JPEC”).

6 **Applicability**

7 This rule applies to all justices and judges of the courts of record and not of record.

8 **Statement of the Rule**

9 (1) Certification of performance standards.

10 (1)(A) The Judicial Council will certify to JPEC judicial compliance with the following
11 performance standards: cases under advisement, education, and physical and mental
12 competence.

13 (1)(B) The Judicial Council will transmit its certification to JPEC by the deadline
14 established in the Utah Administrative Code.

15 ~~(42)~~ Definition of cCase under advisement standard. A case is considered to be under
16 advisement when the entire case or any issue in the case has been submitted to the judge for
17 final determination. For purposes of this rule, “submitted to the judge” or “submission” is the last
18 of the following:

19 (2)(A) When a matter requiring attention is placed by staff in the judge’s personal
20 electronic queue, inbox, personal possession, or equivalent;

21 (2)(B) If a hearing or oral argument is set, at the conclusion of all hearings or oral
22 argument held on the specific motion or matter; or

23 (2)(C) If further briefing is required after a hearing or oral argument, when all permitted
24 briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in
25 the judge’s personal electronic queue, inbox, personal possession, or equivalent.

26
27 (3) Satisfactory Performance by a justice or judgeCase under advisement
28 performance standards.

29 ~~(23)~~ (A) Supreme Court justice. A justice of the Supreme Court demonstrates
30 satisfactory performance by circulating not more than an average of three principal opinions
31 per calendar year more than six months after submission with no more than half of the
32 maximum exceptional cases in any one calendar year.

33 ~~(23)~~ (B) Court of Appeals judge. A judge of the Court of Appeals demonstrates
34 satisfactory performance by:

35 | (23)(B)(i) circulating not more than an average of three principal opinions per
36 | calendar year more than six months after submission with no more than half of the
37 | maximum exceptional cases in any one calendar year; and

38 | (23)(B)(ii) achieving a final average time to circulation of a principal opinion of not
39 | more than 120 days after submission.

40 | (23)(C) **Trial court judge.** A trial court judge demonstrates satisfactory performance by
41 | holding:

42 | (23)(C)(i) not more than an average of three cases per calendar year under
43 | advisement more than two months after submission with no more than half of the
44 | maximum exceptional cases in any one calendar year; and

45 | (23)(C)(ii) no case under advisement more than six months after submission.

46 | **(3)(C)(iii) A case is no longer under advisement when the trial court judge makes a**
47 | **decision on the issue that is under advisement or on the entire case.**

48 | **(4) Case under advisement performance standards—compliance.** A judge or justice
49 | **shall decide all matters submitted for decision within the applicable time period prescribed by**
50 | **this rule, unless circumstances causing a delayed decision are beyond the judge's or justice's**
51 | **personal control.**

52 | **(35) Judicial eEducation performance standard.**

53 | **(5)(A) Education hour standard.** Satisfactory performance is established if the judge or
54 | justice annually obtains 30 hours of judicial education subject to the availability of in-state
55 | education programs.

56 | **(5)(B) Education hour standard—compliance.** A judge or justice shall obtain the
57 | number of education hours prescribed by this rule, unless circumstances preventing the
58 | judge from doing so are beyond the judge's or justice's personal control.

59 | **(46) Physical and mental competence performance standard.** Satisfactory performance
60 | is established if the response of the judge or justice demonstrates physical and mental
61 | competence to serve in office and if the Council finds the responsive information to be complete
62 | and correct. The Council may request a statement by an examining physician.

63 | **(7) Judicial Council certification.** As to the performance standards in this Rule, the
64 | Judicial Council shall certify to JPEC that each judge or justice standing for retention is:

65 | **(7)(A) Compliant;**

66 | **(7)(B) Compliant with explanation, meaning that the Judicial Council has received**
67 | **credible information that non-compliance was due to circumstances beyond the personal**
68 | **control of the judge or justice; or**

69 (7)(C) Non-compliant, which may include a judge or justice who has certified his or her
70 own compliance but the Judicial Council has received credible information inconsistent with
71 that certification.

72 (7)(D) All material relied upon by the Judicial Council in making a certification decision or
73 explanation shall be forwarded to JPEC and shall be made public to the extent that the
74 information is not confidential personal health information.

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76 Effective ~~May~~ November 1, 2021—