

1 **Rule 11-201. Senior judges.**

2 Intent:

3 To establish the qualifications, term, authority, appointment and assignment for senior judges  
4 ~~and active senior~~ judges.

5 Applicability:

6 This rule shall apply to judges of courts of record.

7 The term "judge" includes justices of the Supreme Court.

8 Statement of the Rule:

9 (1) Qualifications.

10 (1)(A) A judge may apply to become a senior judge, on either inactive or active status.

11 ~~(1)(A)(B)~~ Inactive Senior Judge. To be an inactive senior judge, a judge shall:

12 ~~(1)(A)(B)(i)~~ have been retained in the last election for which the judge stood for election;

13 ~~(1)(A)(B)(ii)~~ have voluntarily resigned from judicial office, retired upon reaching the  
14 mandatory retirement age, or, if involuntarily retired due to disability, shall have recovered from  
15 or shall have accommodated that disability;

16 ~~(1)(A)(B)(iii)~~ demonstrate appropriate ability and character;

17 ~~(1)(A)(B)(iv)~~ be admitted to the practice of law in Utah, but shall not practice law; and

18 ~~(1)(A)(B)(v)~~ be eligible to receive compensation under the Judges' Retirement Act, subject  
19 only to attaining the appropriate age.

20 ~~(1)(B)(C)~~ Active Senior Judge. To be an active senior judge, a judge shall:

21 ~~(1)(B)(C)(i)~~ meet the qualifications of an inactive senior judge;

22 ~~(1)(B)(C)(ii)~~ be a current resident of Utah and be available to take cases;

23 ~~(1)(B)(C)(iii)~~ be physically and mentally able to perform the duties of judicial office;

24 ~~(1)(B)(C)(iv)~~ maintain familiarity with current statutes, rules and case law;

25 ~~(1)(B)(C)(v)~~ satisfy the education requirements of an active judge;

26 ~~(1)(B)(C)(vi)~~ attend the annual judicial conference;

27 ~~(1)(B)(C)(vii)~~ accept assignments, subject to being called, at least two days per calendar  
28 year;

29 ~~(1)(B)(C)(viii)~~ conform to the Code of Judicial Conduct, the Code of Judicial Administration  
30 and rules of the Supreme Court;

31 (1)(B)(C)(ix) have obtained results on the most recent judicial performance evaluation prior  
32 to termination of service sufficient to have been ~~certified~~ recommended for retention regardless  
33 of whether the evaluation was conducted for self-improvement or certification;

34 (1)(B)(C)(x) continue to meet the requirements for ~~certification for judicial retention election~~  
35 as those requirements are determined by the Judicial Council to be applicable to active senior  
36 judges;

37 (1)(B)(C)(xi) undergo a performance evaluation every eighteen months following an initial  
38 term as an active senior judge; and

39 (1)(B)(C)(xii) take and subscribe an oath of office to be maintained by the state court  
40 administrator.

41 (2) Disqualifications. To be an active senior judge, a judge:

42 (2)(A) shall not have been removed from office or involuntarily retired on grounds other than  
43 disability;

44 (2)(B) shall not have been suspended during the judge's final term of office or final six years  
45 in office, whichever is greater;

46 (2)(C) shall not have resigned from office as a result of negotiations with the Judicial  
47 Conduct Commission or while a complaint against the applicant was pending before the  
48 Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable  
49 cause; and

50 (2)(D) shall not have been subject to any order of discipline for conduct as a senior judge.

51 (3) Term of Office.

52 (3)(A) The initial term of office of an inactive senior judge is until December 31 of the  
53 second year following appointment. The initial term of office of an active senior judge less than  
54 age 75 years is until December 31 of the second year following appointment or until December  
55 31 of the year in which the judge reaches age 75, whichever is shorter. The initial term of office  
56 of an active senior judge age 75 years or more is until December 31 of the year following  
57 appointment.

58 (3)(B) A subsequent term of office of an inactive senior judge is for three years. A  
59 subsequent term of office of an active senior judge is three years or until December 31 of the  
60 year in which the judge reaches age 75, whichever is shorter. The subsequent term of office of an  
61 active senior judge age 75 years or more is for one year.

62 (3)(C) All subsequent appointments begin on January 1. The Supreme Court may withdraw an  
63 appointment with or without cause.

64 ~~(3)(D) The term of office of senior judges and active senior judges in office on November 1,~~  
65 ~~2005 shall continue until December 31 of the year in which their terms would have expired under~~  
66 ~~the former rule.~~

67 (4) Authority. A senior judge may solemnize marriages. ~~In addition to the authority of a~~  
68 ~~senior judge,~~ a An active senior judge, during an assignment, has all the authority of the office  
69 of a judge of the court to which the assignment is made.

70 (5) Application and Appointment.

71 (5)(A) To be appointed a senior judge ~~or active senior judge~~ a judge shall apply to the  
72 Judicial Council for either inactive or active status and shall submit relevant information as  
73 requested by the Judicial Council.

74 (5)(B) The applicant shall:

75 (5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered by  
76 the Supreme Court; and

77 (5)(B)(ii) declare whether at the time of the application there is any complaint against the  
78 applicant pending before the Supreme Court or pending before the Judicial Conduct Commission  
79 after a finding of reasonable cause.

80 (5)(C) ~~The Judicial Council may apply to the judicial performance evaluation information the~~  
81 ~~same standards and discretion provided for in Rule 3-111.05.~~ After considering all information,  
82 including any performance evaluation conducted under rule 3-111, the Judicial Council may  
83 certify to the Supreme Court that the applicant meets the qualifications of a senior judge or active  
84 senior judge. The Judicial Council shall forward to, and the Supreme Court shall review,  
85 information on all applicants. Any applicant who is not certified by the Judicial Council may  
86 submit to the Supreme Court a written explanation on why the applicant should be appointed as  
87 an inactive senior judge or active senior judge despite not being certified by the Judicial Council.  
88 The written explanation shall be submitted to the Supreme Court no later than 14 days after the  
89 applicant is notified that the applicant is not certified. ~~and~~ With the concurrence of a majority of  
90 the members of the Supreme Court, the Chief Justice may appoint the judge as an inactive senior  
91 judge or active senior judge.

92 Judges who declined, under former Rule 3-111, to participate in an attorney survey in  
93 anticipation of retirement may use the results of an earlier survey to satisfy Subsection  
94 (1)(B)(ix).

95 (6) Assignment.

96 (6)(A) With the consent of the active senior judge, the presiding judge may assign an active  
97 senior judge to a case or for a specified period of time. Cumulative assignments under this  
98 subsection shall not exceed 60 days per calendar year except as necessary to complete an  
99 assigned case.

100 (6)(B) In extraordinary circumstances and with the consent of the active senior judge, the  
101 chief justice may assign an active senior judge to address the extraordinary circumstances for a  
102 specified period of time not to exceed 60 days per calendar year, which may be in addition to  
103 assignments under subsection (6)(A). To request an assignment under this subsection, the  
104 presiding judge shall certify that there is an extraordinary need. The state court administrator  
105 shall certify whether there are funds available to support the assignment.

106 (6)(C) An active senior judge may be assigned to any court other than the Supreme Court.

107 (6)(D) The state court administrator shall provide such assistance to the presiding judge and  
108 chief justice as requested and shall exercise such authority in making assignments as delegated  
109 by the presiding judge and chief justice.

110 (6)(E) Notice of an assignment made under this rule shall be in writing and maintained by the  
111 state court administrator.