

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 established
14 in the Utah Administrative Code.

15 ~~(1)~~ **Case under advisement standard.** A case is considered to be under advisement
16 when the entire case or any issue in the case has been submitted to the judge for final
17 determination. For purposes of this rule, “submitted to the judge” or “submission” is the last of
18 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
25 staff in the judge’s personal electronic queue, inbox, personal possession, or equivalent.

26 **(3) Satisfactory Performance by a justice or judge.**

27 ~~(2)~~ **(3)(A) Supreme Court justice.** A justice of the Supreme Court demonstrates
28 satisfactory performance by circulating not more than an average of three principal opinions
29 per calendar year more than six months after submission with no more than half of the
30 maximum exceptional cases in any one calendar year.

31 ~~(2)~~ **(3)(B) Court of Appeals judge.** A judge of the Court of Appeals demonstrates
32 satisfactory performance by:

33 ~~(2)~~ (3)(B)(i) circulating not more than an average of three principal opinions per
34 calendar year more than six months after submission with no more than half of the
35 maximum exceptional cases in any one calendar year; and

36 ~~(2)~~ (3)(B)(ii) achieving a final average time to circulation of a principal opinion of not
37 more than 120 days after submission.

38 ~~(2)~~ **(3)(C) Trial court judge.** A trial court judge demonstrates satisfactory performance by
39 holding:

40 ~~(2)~~ (3)(C)(i) not more than an average of three cases per calendar year under
41 advisement more than two months after submission with no more than half of the
42 maximum exceptional cases in any one calendar year; and

43 ~~(2)~~ (3)(C)(ii) no case under advisement more than six months after submission.

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

46 | ~~(34)~~ **Education standard.** Satisfactory performance is established if the judge annually
47 | obtains 30 hours of judicial education subject to the availability of in-state education programs.

48 | ~~(45)~~ **Physical and mental competence.** Satisfactory performance is established if the
49 | response of the judge demonstrates physical and mental competence to serve in office and if
50 | the Council finds the responsive information to be complete and correct. The Council may
51 | request a statement by an examining physician.

52 | (6) **Judicial Council discretion.** The Judicial Council has discretion to find that a judge or
53 | justice is otherwise compliant with judicial performance standards when the judge or justice has
54 | failed to comply with paragraphs (2) or (3) for reasons beyond the judge's or justice's personal
55 | control, or for other good cause as determined by the Judicial Council. The Judicial Council
56 | shall make a public record of its findings.

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58 | *Effective May/November 1, 2020*

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