

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.

- 132 (3)(G) **Court executives.**
- 133 (3)(G)(i) The presiding judge shall review the proposed appointment of the
- 134 court executive made by the State Court Administrator and must
- 135 concur in the appointment before it will be effective. The presiding
- 136 judge shall obtain the approval of a majority of the judges in that
- 137 jurisdiction prior to concurring in the appointment of a court executive.
- 138 (3)(G)(ii) The presiding judge for the respective court level and the state level
- 139 administrator shall jointly develop an annual performance plan for the
- 140 court executive.
- 141 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding
- 142 judge in the preparation of an evaluation of the court executive's
- 143 performance for the previous year, also taking into account input from
- 144 all judges in the district.
- 145 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the
- 146 court executive, including coordination of annual leave.
- 147 (3)(G)(v) Pursuant to Council policy and the direction of the state level
- 148 administrator, the court executive has the responsibility for the day-to-
- 149 day supervision of the non-judicial support staff and the non-judicial
- 150 administration of the court. The presiding judge, in consultation with
- 151 the judges of the jurisdiction, shall coordinate with the court executive
- 152 on matters concerning the support staff and the general administration
- 153 of the court including budget, facility planning, long-range planning,
- 154 administrative projects, intergovernmental relations and other
- 155 administrative responsibilities as determined by the presiding judge
- 156 and the state level administrator.
- 157 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of
- 158 courtrooms and facilities.
- 159 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in
- 160 consultation with the presiding judge, shall:
- 161 (3)(I)(i) coordinate the compilation of management and statistical information
- 162 necessary for the administration of the court;
- 163 (3)(I)(ii) establish policies and procedures and ensure that court personnel are
- 164 advised and aware of these policies;

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.