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Rule 3-104. Presiding judges.

Intent:

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

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:

(1) Election and term of office.

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

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

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

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

(2) Court organization.

(2)(A) Court en banc.

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

44 (2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by
45 court invitation only.

46 (2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and
47 judgment of each court and the applicable sections of the Utah Constitution, statutes, and this
48 Code.

49 (2)(B) Absence of presiding judge. When the presiding judge and the associate presiding
50 judge, if any, are absent from the court, an acting presiding judge shall be appointed. The
51 method of designating an acting presiding judge shall be at the discretion of the presiding judge.
52 All parties that must necessarily be informed shall be notified of the judge acting as presiding
53 judge.

54 **(3) Administrative responsibilities and authority of presiding judge.**

55 (3)(A)(i) Generally. The presiding judge is charged with the responsibility for the effective
56 operation of the court. He or she is responsible for the implementation and enforcement of
57 statutes, rules, policies and directives of the Council as they pertain to the administration of the
58 courts, orders of the court en banc and supplementary rules. The presiding judge has the
59 authority to delegate the performance of non-judicial duties to the court executive. When the
60 presiding judge acts within the scope of these responsibilities, the presiding judge is acting
61 within the judge's judicial office.

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

66 (3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or Judicial
67 Council to review any administrative decision made by the presiding judge of that district.

68 **(3)(B) Coordination of judicial schedules.**

69 (3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of
70 judges and be responsible for an orderly plan of judicial absences from court duties.

71 (3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the
72 presiding judge consistent with Rule 3-103(4).

73 **(3)(C) Authority to appoint senior judges.**

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

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

81 (3)(C)(iii) If more than 14 judicial days of coverage will be required, the presiding judge will
82 promptly present to the State Court Administrator a plan for meeting the needs of the court for
83 the anticipated duration of the vacancy or absence and a budget to implement that plan. The
84 plan should describe the calendars to be covered by judges of the district, judges of other
85 districts, and senior judges. The budget should estimate the funds needed for travel by judges
86 and for time and travel by senior judges.

87 (3)(C)(iv) If any part of the proposed plan is contested by the State Court Administrator, the
88 plan will be reviewed by the Management Committee of the Judicial Council for final
89 determination.

90 (3)(D) **Court committees.** The presiding judge shall, where appropriate, make use of court
91 committees composed of other judges and court personnel to investigate problem areas, handle
92 court business and report to the presiding judge and/or the court en banc.

93 (3)(E) **Outside agencies and the media.**

94 (3)(E)(i) The presiding judge or court executive shall be available to meet with outside
95 agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police
96 chief, bar association leaders, probation and parole officers, county governmental officials, civic
97 organizations and other state agencies. The presiding judge shall be the primary representative
98 of the court.

99 (3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court
100 executive shall represent the court and make statements to the media on matters pertaining to
101 the total court and provide general information about the court and the law, and about court
102 procedures, practices and rulings where ethics permit.

103 (3)(F) **Docket management and case and judge assignments.**

104 (3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and
105 implement improved methods and systems of managing dockets.

106 (3)(F)(ii) The presiding judge shall assign cases and judges in accordance with
107 supplemental court rules to provide for an equitable distribution of the workload and the prompt
108 disposition of cases.

109 (3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding
110 judge. The presiding judge shall, through the State Court Administrator, request assistance of
111 visiting judges or other appropriate resources when needed to handle the workload of the court.

112 (3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer
113 necessary assistance to expedite the disposition of cases.

114 (3)(G) **Court executives.**

115 (3)(G)(i) The presiding judge shall review the proposed appointment of the court executive
116 made by the State Court Administrator and must concur in the appointment before it will be
117 effective. The presiding judge shall obtain the approval of a majority of the judges in that
118 jurisdiction prior to concurring in the appointment of a court executive.

119 (3)(G)(ii) The presiding judge for the respective court level and the state level administrator
120 shall jointly develop an annual performance plan for the court executive.

121 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the
122 preparation of an evaluation of the court executive's performance for the previous year, also
123 taking into account input from all judges in the district.

124 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court
125 executive, including coordination of annual leave.

126 (3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the
127 court executive has the responsibility for the day-to-day supervision of the non-judicial support
128 staff and the non-judicial administration of the court. The presiding judge, in consultation with
129 the judges of the jurisdiction, shall coordinate with the court executive on matters concerning the
130 support staff and the general administration of the court including budget, facility planning, long-

131 range planning, administrative projects, intergovernmental relations and other administrative
132 responsibilities as determined by the presiding judge and the state level administrator.

133 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of
134 courtrooms and facilities.

135 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in consultation
136 with the presiding judge, shall:

137 (3)(I)(i) coordinate the compilation of management and statistical information necessary for
138 the administration of the court;

139 (3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and
140 aware of these policies;

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

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

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

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

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

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

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

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

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

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

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

165 (3)(L)(i) A case is considered to be under advisement when the entire case or any issue in
166 the case has been submitted to the judge for final determination. For purposes of this rule,
167 “submitted to the judge” is defined as follows:

168 (3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge’s personal
169 electronic queue, inbox, personal possession, or equivalent;

170 (3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral
171 argument held on the specific motion or matter; or

172 (3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all
173 permitted briefing is completed, a request to submit is filed, if required, and the matter is

174 placed by staff in the judge's personal electronic queue, inbox, personal possession, or
175 equivalent.

176 A case is no longer under advisement when the judge makes a decision on the issue that is
177 under advisement or on the entire case.

178 The final determination occurs when the judge resolves the pending issue by announcing
179 the decision on the record or by issuing a written decision, regardless of whether the parties are
180 required to subsequently submit for the judge's signature a final order memorializing the
181 decision.

182 (3)(L)(ii) Once a month each judge shall submit a statement on a form to be provided by the
183 State Court Administrator notifying the presiding judge of any cases or issues held under
184 advisement for more than two months and the reason why the case or issue continues to be
185 held under advisement.

186 (3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held
187 under advisement for more than two months to the appropriate state level administrator and
188 indicate the reasons why the case or issue continues to be held under advisement.

189 (3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state
190 level administrator shall report that fact to the Council.

191 (3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and
192 the Board for the respective court level.

193 (3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is
194 responsible for the development of a performance plan for the Court Commissioner serving in
195 that court and shall prepare an evaluation of the Commissioner's performance on an annual
196 basis. A copy of the performance plan and evaluation shall be maintained in the official
197 personnel file in the Administrative Office.

198 (3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the
199 justice court administrator to develop a rotation of magistrates that ensures regular availability of
200 magistrates within the district. The rotation shall take into account each magistrate's caseload,
201 location, and willingness to serve.

202

203 *Effective May/November 1, 2020*