

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

To establish performance standards upon which the Judicial Council will certify judicial compliance to the Judicial Performance Evaluation Commission ("JPEC").

Applicability

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

Statement of the Rule

(1) ~~Certification of p~~**Performance standards.** ~~(1)(A)~~ The Judicial Council will certify to JPEC judicial compliance with the following performance standards: cases under advisement, education, and physical and mental competence.

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

(2) Definition of case under advisement.

(2)(A) A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" or "submission" is the last of the following:

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

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

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

(2)(B) A case is no longer under advisement when the trial court judge makes a decision on the issue that is under advisement or on the entire case. The final determination occurs when the trial court judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit a final order memorializing the decision for the judge's signature.

(3) Case under advisement performance standards.

(3)(A) **Supreme Court justice.** A justice of the Supreme Court demonstrates satisfactory performance by circulating not more than ~~an average of~~ three principal opinions per

calendar year more than six months after submission ~~with no more than half of the maximum exceptional cases in any one calendar year.~~

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

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

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

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

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

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

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

(4) **Case under advisement performance standards—compliance.** A judge or justice shall decide all matters submitted for decision within the applicable time periods ~~prescribed by this rule in paragraph (3),~~ unless circumstances causing a delayed decision are beyond the judge's or justice's personal control.

(5) **Judicial education performance standard.**

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

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

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

(7) Reporting requirements.

(7)(A) Reporting term. For purposes of this rule, the reporting term for new justices and judges begins on the date the Utah Senate confirms their appointment. The reporting term for retained justices and judges begins the day after they submit the report in (7)(B). The reporting term for all justices and judges ends on August 1st of the year preceding the next general election in which the judge or justice is standing for retention.

(7)(B) Reporting requirement. Within 14 calendar days following the end of a reporting term, justices and judges shall report to the Judicial Council their compliance or non-compliance with the performance standards in this rule during that reporting term. Reports shall be submitted in accordance with policies established by the Judicial Council. If non-compliance is due to circumstances beyond the justice's or judge's personal control, the judge or justice must provide an explanation of the circumstances and may submit supporting documentation.

(8) Judicial Council certification.

(8)(A) As to the performance standards in this Rule, the Judicial Council shall certify to JPEC that each judge or justice standing for retention is:

(8)(A)(i) Compliant;

(8)(A)(ii) Compliant with explanation, meaning that the Judicial Council has received credible information that non-compliance was due to circumstances beyond the personal control of the judge or justice; or

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

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

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

Effective: May/November 1, 202_4