

Rule 3-201. Court Commissioners**Intent:**

To define the role of court commissioner.

To establish a term of office for court commissioners.

To establish uniform administrative policies governing the qualifications, appointment, supervision, discipline and removal of court commissioners.

To establish uniform administrative policies governing the salaries, benefits and privileges of the office of court commissioner.

Applicability:

This rule ~~shall apply~~applies to all trial courts of record.

Statement of the Rule:

(1) **Definition.** Court commissioners are quasi judicial officers established by the Utah Code.

(2) **Qualifications.**

(2)(A) Court commissioners must be at least 25 years of age, United States citizens, Utah residents for three years preceding appointment and residents of Utah while serving as commissioners. A court commissioner ~~shall~~will reside in a judicial district the commissioner serves.

(2)(B) Court commissioners must be admitted to practice law in Utah and exhibit good character. Court commissioners must possess ability and experience in the areas of law in which the court commissioner serves.

(2)(C) Court commissioners ~~shall~~will serve full time and ~~shall~~will comply with Utah Code Section 78A 2 221.

(3) **Appointment - Oath of office.**

(3)(A) Selection of court commissioners ~~shall~~will be based solely upon consideration of fitness for office.

(3)(B) When a vacancy occurs or is about to occur in the office of a court commissioner, the Council ~~shall~~will determine whether to fill the vacancy. The Council may determine that the court commissioner will serve more than one judicial district.

(3)(C) After the determination required by paragraph (3)(B), the presiding judge(s) of the district(s) the commissioner will serve, will form a committee for the purpose of nominating candidates. The committee will consist of the presiding judge(s) or designee(s) from each court level and judicial district that the commissioner will serve, three lawyers, and two members of the public. Committee members ~~shall~~will be appointed by the presiding judge(s) of the district court of each judicial district. The

52 presiding judge(s) ~~shall~~will designate a chair of the committee. All members of the
53 committee ~~shall~~will reside in the judicial district(s). All members of the committee ~~shall~~
54 will be voting members. A quorum of one half the committee members is necessary for
55 the committee to act. The committee ~~shall~~will act by the concurrence of a majority of the
56 members voting. When voting upon the qualifications of a candidate, the committee ~~shall~~
57 will follow the procedures established in the commissioner nominating manual.

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59 (3)(D) No member of the committee may vote upon the qualifications of any candidate
60 who is the spouse of that committee member or is related to that committee member
61 within the third degree of relationship. No member of the committee may vote upon the
62 qualifications of a candidate who is associated with that committee member in the
63 practice of law. The committee member ~~shall~~will declare to the committee any other
64 potential conflict of interest between that member and any candidate as soon as the
65 member becomes aware of the potential conflict of interest. The committee ~~shall~~will
66 determine whether the potential conflict of interest will preclude the member from voting
67 upon the qualifications of any candidate. The committee ~~shall~~will record all declarations
68 of potential conflicts of interest and the decision of the committee upon the issue.
69

70 (3)(E) The administrative office of the courts ~~shall~~will advertise for qualified applicants
71 and ~~shall~~will remove from consideration those applicants who do not meet minimum
72 qualifications of age, citizenship, residency, and admission to the practice of law. The
73 administrative office of the courts ~~shall~~will develop uniform guidelines for the application
74 process for court commissioners.
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76 (3)(F) The nominating committee ~~shall~~will review the applications of qualified applicants
77 and may investigate the qualifications of applicants to its satisfaction. The committee
78 ~~shall~~will interview selected applicants and select the three best qualified candidates. All
79 voting ~~shall~~will be by confidential ballot. The committee ~~shall~~will receive public
80 comment on those candidates as provided in paragraph (4). Any candidate may be
81 reconsidered upon motion by a committee member and upon agreement by a majority of
82 nominating committee members.
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84 (3)(G) When the public comment period as provided in paragraph (4) has closed, the
85 comments ~~shall~~will be given to the nominating committee. If any comments would
86 negatively affect the committee's decision on whether to recommend a candidate, the
87 candidate ~~shall~~will be given all comments with the commenters' names redacted and an
88 opportunity to respond to the comments. If the committee decides not to recommend a
89 candidate based on the comments, the committee ~~shall~~will select another candidate
90 from the interviewed applicants and again receive public comment on the candidates as
91 provided in paragraph (4).
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93 (3)(H) The chair of the nominating committee ~~shall~~will present the names, applications,
94 and the results of background investigations of the nominees to the judges of the courts
95 the court commissioner will serve. The committee may indicate its order of preference.
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97 (3)(I) The judges of each court level the court commissioner will serve ~~shall~~will together
98 select one of the nominees by a concurrence of a majority of judges voting. If the
99 commissioner will serve more than one judicial district, the concurrence of a majority of
100 judges in each district is necessary for selection.
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(3)(J) The presiding judge of the district the court commissioner will primarily serve ~~shall~~will present the name of the selected candidate to the ~~Council~~Management Committee. The selection ~~shall~~will be final upon the concurrence of two-thirds of the members of the ~~Council~~Management Committee. The ~~Council~~Management Committee ~~shall~~will vote upon the selection within 45 days of the selection or the concurrence of the ~~Council~~Management Committee ~~shall~~will be deemed granted.

(3)(K) If the ~~Council~~Management Committee does not concur in the selection, the judges of the district may select another of the nominees or a new nominating process will be commenced.

(3)(L) The appointment ~~shall~~will be effective upon the court commissioner taking and subscribing to the oath of office required by the Utah Constitution and taking any other steps necessary to qualify for office. The court commissioner ~~shall~~will qualify for office within 45 days after the concurrence by the ~~Council~~Management Committee.

(4) Public comment for appointment and retention.

(4)(A) Final candidates for appointment and court commissioners who are up for retention ~~shall~~will be subject to public comment.

(4)(B) For final candidates, the nominating committee ~~shall~~will be responsible for giving notice of the public comment period.

(4)(C) For court commissioners, the district in which the commissioner serves ~~shall~~will be responsible for giving notice of the public comment period.

(4)(D) The nominating committee or district in which the commissioner serves ~~shall~~will:

(4)(D)(i) email notice to each active member of the Utah State Bar including the names of the nominees or court commissioner with instructions on how to submit comments;

(4)(D)(ii) issue a press release and other public notices listing the names of the nominees or court commissioner with instructions on how to submit comments; and

(4)(D)(iii) allow at least 10 days for public comment.

(4)(E) Individuals who comment on the nominees or commissioners should be encouraged, but not required, to provide their names and contact information.

(4)(F) The comments are classified as protected court records and ~~shall~~will not be made available to the public.

(5) Term of office. The court commissioner ~~shall~~will be appointed until December 31 of the third year following concurrence by the Council. At the conclusion of the first term of office and each subsequent term, the court commissioner ~~shall~~will be retained for a term of four years unless the judges of the courts the commissioner serves vote not to retain the commissioner in accordance with paragraph (8)(B) or unless the Judicial Council does not certify the commissioner for retention under rule 3-111. The term of office of court commissioners holding

office on April 1, 2011 ~~shall~~will end December 31 of the year in which their term would have ended under the former rule.

(6) Court commissioner performance review.

(6)(A) **Performance evaluations and performance plans.** The presiding judge of each district and court level the commissioner serves ~~shall~~will prepare an evaluation of the commissioner's performance and a performance plan in accordance with Rule 3-111. Court commissioners ~~shall~~will comply with the program for judicial performance evaluation, including expectations set forth in a performance plan.

(6)(B) **Public comment period results.** When the public comment period for a commissioner provided in paragraph (4) closes, the comments ~~shall~~will be given to and reviewed by the presiding judge of each district and court level the commissioner serves. If there are any negative comments, the negative comments ~~shall~~will be provided to the commissioner with the commenters' names redacted and the commissioner ~~shall~~will be given an opportunity to respond to the comments.

(7) Corrective action or removal during a commissioner's term.

(7)(A) Corrective action.

(7)(A)(i) The Council may take corrective actions as the result of a complaint filed under rule 3-201.02.

(7)(A)(ii) If the commissioner's performance is not satisfactory, corrective actions may be taken in accordance with paragraph (7)(A)(iii) by the presiding judge, or presiding judges if the commissioner serves multiple districts or court levels, with the concurrence of a majority of the judges in either district or court level the commissioner serves.

(7)(A)(iii) Corrective actions may include but are not limited to private or public censure, restrictions in case assignments with corresponding reduction in salary, mandatory remedial education, suspension without pay for a period not to exceed 60 days, and removal under (7)(B)(i)(c).

(7)(B) Removal.

(7)(B)(i) **Removal by Judicial Council.** During a commissioner's term, the court commissioner may be removed by the Council:

(7)(B)(i)(a) as part of a reduction in force;

(7)(B)(i)(b) for failure to meet the evaluation requirements; or

(7)(B)(i)(c) as the result of a complaint filed under rule 3-201.02 upon the concurrence of two-thirds of the Council.

(7)(B)(ii) **Removal by District or Court Level.**

(7)(B)(ii)(a) During a commissioner's term, if the commissioner's performance is not satisfactory, the commissioner may be removed by the presiding judge, or presiding judges if the commissioner serves multiple districts or court levels, only with the concurrence of a majority of the judges in each district or court level the commissioner serves.

(7)(B)(ii)(b) If the commissioner serves multiple districts or court levels and one district or court level contests a commissioner removal decision made by the other district or court level, the Management Committee will review the decision, with final determination by the Judicial Council.

(7)(C) **Review of District or Court Level Decisions.** If the commissioner disagrees with a district or court level's decision to remove the commissioner or take corrective actions, the commissioner may request a review of the decision by the Management Committee of the Council.

(8) Retention.

(8)(A) The Council shall review materials on the commissioner's performance prior to the end of the commissioner's term of office and the Council ~~shall~~will vote on whether the commissioner is eligible to be retained for another term in accordance with rule 3-111.

(8)(B) At the end of a commissioner's term, the judges of each district and court level the commissioner serves may vote not to retain the commissioner for another term of office. The decision not to retain is without cause and ~~shall~~will be by the concurrence of a majority of the judges in each district and court level the commissioner serves. A decision not to retain a commissioner under this paragraph ~~shall~~will be communicated to the commissioner within a reasonable time after the decision is made, and not less than 60 days prior to the end of the commissioner's term.

(9) Salaries and benefits.

(9)(A) The Council ~~shall~~will annually establish the salary of court commissioners. In determining the salary of the court commissioners, the Council ~~shall~~will consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary of a commissioner ~~shall~~will not be reduced during the commissioner's tenure.

(9)(B) Court commissioners ~~shall~~will receive annual leave of 20 days per calendar year and the same sick leave benefits as judges of the courts of record. Annual leave not used at the end of the calendar year ~~shall~~will not accrue to the following year. A commissioner hired part way through the year ~~shall~~will receive annual leave on a prorated basis. Court commissioners ~~shall~~will receive the same retirement benefits as non-judicial officers employed in the judicial branch.

(10) Support services.

(10)(A) Court commissioners ~~shall~~will be provided with support personnel, equipment, and supplies necessary to carry out the duties of the office as determined by the presiding judge.

254 (10)(B) Court commissioners are responsible for requesting necessary support services
255 from the presiding judge.

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257 Effective: ~~May 1, 2024~~November 1, 2025