

Rule 3-201.01 Commissioners for divisions within the district court.

Intent:

To define the role of commissioners for divisions within the district court, which currently includes the Debt Collection and Housing Action Division.

To establish a term of office for Division Commissioners.

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

Applicability:

This rule applies to all trial courts of record for which a division has been established by the Council pursuant to Utah Code section 78A-5-103 (effective Jan. 1, 2027).

Statement of the Rule:

(1) Definitions.

(1)(A) "District Board" means the Board of District Court Judges.

(1)(B) "District Chair" means the Chair of the Board of District Court Judges or their designee.

(1)(C) "Division Commissioner" is a court commissioner, which is a quasi-judicial officer established by the Utah Code and authorized by the Council and, as appropriate, the Utah Supreme Court, to handle cases assigned to a division within the district court, such as the Debt Collection and Housing Action Division.

(2) Qualifications.

(2)(A) Division 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.

(2)(B) Division Commissioners must be admitted to practice law in Utah and exhibit good character. Division Commissioners must possess ability and experience in the areas of law in which the Division Commissioner serves.

(2)(C) Division Commissioners must comply with Utah Code section 78A-2-221.

(3) Appointment - Oath of office.

(3)(A) Selection of Division Commissioners 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 Division Commissioner, the Council will determine whether to fill the vacancy.

(3)(C) After the determination required by paragraph (3)(B), the District Chair will form a committee for the purpose of nominating candidates. The committee will consist of three

35 district court judges; three lawyers with varied viewpoints from the practice areas which
36 are the focus of the division; and two members of the public. The judges on the
37 nominating committee must not be members of the District Board or the Council. One of
38 the judges will be appointed as the chair of the committee. The District Court
39 Administrator will assist the committee. All members of the committee will reside in the
40 State of Utah. All members of the committee will be voting members. A quorum of one
41 half the voting committee members is necessary for the committee to act. The
42 committee will act by the concurrence of a majority of the members voting.

43 (3)(D) No member of the committee may vote upon the qualifications of any candidate
44 who is the spouse of that committee member or is related to that committee member
45 within the third degree of relationship. No member of the committee may vote upon the
46 qualifications of a candidate who is associated with that committee member in the
47 practice of law. The committee member will declare to the committee any other potential
48 conflict of interest between that member and any candidate as soon as the member
49 becomes aware of the potential conflict of interest. The committee will determine
50 whether the potential conflict of interest will preclude the member from voting upon the
51 qualifications of any candidate. The committee will record all declarations of potential
52 conflicts of interest and the decision of the committee upon the issue.

53 (3)(E) The Administrative Office will advertise for qualified applicants and will remove
54 from consideration those applicants who do not meet minimum qualifications of age,
55 citizenship, residency, and admission to the practice of law. The Administrative Office
56 will develop uniform guidelines for the application process for Division Commissioners.

57 (3)(F) The nominating committee will review the applications of qualified applicants and
58 may investigate the qualifications of applicants to its satisfaction. The committee will
59 interview selected applicants and select the three best qualified candidates. All voting
60 will be by confidential ballot. The committee will receive public comment on those
61 candidates as provided in paragraph (4). Any candidate may be reconsidered upon
62 motion by a committee member and upon agreement by a majority of nominating
63 committee members.

64 (3)(G) When the public comment period as provided in paragraph (4) has closed, the
65 comments will be given to the nominating committee. If any comments would negatively
66 affect the committee's decision on whether to recommend a candidate, the candidate will
67 be given all comments with the commenters' names redacted and an opportunity to
68 respond to the comments. If the committee decides not to recommend a candidate
69 based on the comments, the committee will select another candidate from the
70 interviewed applicants and again receive public comment on the candidates as provided
71 in paragraph (4).

72 (3)(H) The nominating committee will present the names, applications, and the results of
73 background investigations of the nominees to the District Board. The committee may
74 indicate its order of preference.

(3)(I) The District Board will select one of the nominees by a concurrence of a majority of judges voting.

(3)(J) The District Chair will present the name of the selected candidate to the Management Committee. The selection will be final upon the concurrence of two-thirds of the members of the Management Committee. The Management Committee will vote upon the selection within 45 days of the selection or the concurrence of the Management Committee will be deemed granted.

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

(3)(L) The appointment will be effective upon the Division 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 Division Commissioner will qualify for office within 45 days after the concurrence by the Management Committee.

(4) Public comment for appointment and retention.

(4)(A) Final candidates for appointment and Division Commissioners who are up for retention will be subject to public comment.

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

(4)(C) For Division Commissioners, the Administrative Office will be responsible for giving notice of the public comment period.

(4)(D) The responsible party will:

(4)(D)(i) email notice to each active member of the Utah State Bar including the names of the nominees or Division 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 Division 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 Division 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 will not be made available to the public.

(5) Term of office. Division Commissioners 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, Division Commissioners will be retained for a term of four years unless the District Board votes not to retain the Division Commissioner in accordance with paragraph

(8)(B) or unless the Council does not certify the Division Commissioner for retention under Rule 3-111.

(6) Division Commissioner performance review.

(6)(A) Performance evaluations and performance plans. The District Chair will prepare an evaluation of the Division Commissioner's performance and a performance plan in accordance with Rule 3-111. Division Commissioners 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 Division Commissioner provided in paragraph (4) closes, the comments will be given to and reviewed by the District Board. If there are any negative comments, the negative comments will be provided to the Division Commissioner with the commenters' names redacted and the Division Commissioner will be given an opportunity to respond to the comments.

(7) Corrective action or removal during a Division 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 Division Commissioner's performance is not satisfactory, corrective actions may be taken in accordance with paragraph (7)(A)(iii) by the District Chair following a majority vote of the District Board.

(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. During a Division Commissioner's term, the Division Commissioner may be removed by the Council:

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

(7)(B)(ii) for failure to meet the evaluation requirements;

(7)(B)(iii) as the result of a complaint filed under Rule 3-201.02 upon the concurrence of two-thirds of the Council; or

(7)(B)(iv) for unsatisfactory performance, as reported to the Council by the District Chair following a majority vote of the District Board.

(8) Retention.

(8)(A) The Council will review materials on the Division Commissioner's performance prior to the end of the Division Commissioner's term of office and the Council will vote on

whether the Division Commissioner is eligible to be retained for another term in accordance with Rule 3-111.

(8)(B) The Council will seek a recommendation from the District Board as to whether to retain the Division Commissioner for another term of office.

(8)(C) The Council will, with the concurrence of a majority of the members voting, determine whether to retain the Division Commissioner for another term. A decision not to retain may be without cause and 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 will annually establish the salary of Division Commissioners. In determining the salary of the Division Commissioners, the Council will consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (7), the salary of a Division Commissioner will not be reduced during the commissioner's tenure.

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

(10) Support services.

(10)(A) Division Commissioners will be provided with support personnel, equipment, and supplies necessary to carry out the duties of the office as determined by the District Court Administrator.

(10)(B) Division Commissioners are responsible for requesting necessary support services from the District Court Administrator.

Effective: November 1, 2026