Rule 1-201. Senior Judges.

Intent:

To establish the qualifications, term, authority, appointment, reappointment, and assignment for senior judges.

Applicability: This rule applies to senior judges of courts of record. The term "judge" includes justices of the Supreme Court.

Statement of the Rule:

(a) **Qualifications.** A judge may apply to become a senior judge, on either inactive or active status.

(1) **Inactive senior judge.** A judge is qualified to be an inactive senior judge if the judge:

(A) was retained in the last election for which the judge stood for election;

(B) voluntarily resigned from judicial office, voluntarily retired, or involuntarily retired due to disability, but recovered from or accommodated that disability;

(C) did not resign from office as a result of negotiations with the Judicial Conduct Commission;

(D) is not the subject of a complaint pending before the Supreme Court or the Judicial Conduct Commission at the time of the application;

(E) has not been subject to any order of discipline for conduct as a judge;

(F) does not have any criminal charge, other than an infraction, pending at the time of the application;

(G) demonstrates appropriate ability and character;

(H) is admitted to the practice of law in Utah and holds an active or inactive Utah State Bar license, but does not practice law; and

(I) is eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.

(2) **Active senior judge.** A judge is qualified to be an active senior judge if the judge:

(A) meets the qualifications of an inactive senior judge;

(B) was not suspended during the judge's final term of office or final six years in office, whichever is greater;

(C) is a current resident of Utah and is available to take cases;

(D) is physically and mentally able to perform the duties of judicial office;

(E) is familiar with current statutes, rules, case law, remote hearing technology, and court case management systems, such as CORIS for district courts, CARE for juvenile courts, AIS for appellate courts, and Workspace;

(F) satisfies the education requirements set forth in Rule 3-403;

(G) agrees to conform to the Code of Judicial Administration and the Code of Judicial Conduct and other rules of the Supreme Court; and

(H) maintains an active Utah State Bar license.

(b) **Application and appointment.**

(1) To be appointed a senior judge, a judge must:

(A) Submit an application to the Administrative Office of the Courts (AOC) on a form provided by the AOC.

(B) Declare on the application that the applicant meets each relevant qualification as set forth in paragraph (a).

(C) If applying for active senior judge status, submit results on the most recent judicial performance evaluation prior to termination of service sufficient to have been recommended for retention.

(2) After receiving the required senior judge application, the AOC will provide the application to the Judicial Council, and a copy to the applicant. For applicants for active senior judge status, the AOC will also provide the most recent judicial performance evaluation to the Judicial Council, and a copy to the applicant.

(3) After considering all information in a session closed in compliance with Rule 2-103, the Judicial Council will determine and notify the Supreme Court whether the applicant meets the qualifications for an appointment as an active or inactive senior judge.

(4) The Judicial Council will inform an applicant, in writing, if the Judicial Council notifies the Supreme Court that the applicant does not meet qualifications for appointment.

(5) An applicant who receives notice from the Judicial Council under paragraph (4) may, within 14 days of the date the Judicial Council sent the notice, submit to the Appellate Court Administrator a written explanation on why the applicant should be appointed as an active or inactive senior judge.

(6) The Supreme Court will review each applicant's information. With the concurrence of a majority of the members of the Supreme Court, the Chief Justice may appoint the judge as an active or inactive senior judge.

(7) Active senior judges must take and subscribe an oath of office with the original to be maintained by the State Archives and a copy to be maintained by the State Court Administrator or the Administrator's designee.

(c) **Reappointment qualifications.**

(1) An active senior judge is qualified for reappointment if the judge:

(A) is physically and mentally able to perform the duties of judicial office;

(B) maintains familiarity with current statutes, rules, case law, remote hearing technology, and court case management systems, such as CORIS for district courts, CARE for juvenile courts, AIS for appellate courts, and Workspace;

(C) satisfied the education requirement of completing 30 hours of education per fiscal year as set forth in Rule 3-403;

(D) attended the annual judicial conference and the annual senior judge bench meeting during each year of the senior judge term;

(E) volunteered for a minimum of two case assignments per fiscal year during the current term, subject to being called;

(F) met standards of performance as provided in paragraph (f);

(G) continues to conform to the Code of Judicial Administration and the Code of Judicial Conduct and other rules of the Supreme Court; and

(H) continues to meet qualifications for an active senior judge set forth paragraph (a)(2).

(2) An inactive senior judge is qualified for reappointment if the judge continues to meet qualifications set forth in paragraph (a)(1).

(d) **Reappointment application.** To be reappointed as a senior judge, a judge must apply to the Judicial Council for either inactive or active status.

(1) Active and inactive senior judges seeking reappointment must submit the senior judge application by February 1 in the last year of their current term.

(A) An applicant for active senior judge status must submit an application to the AOC declaring whether the applicant meets qualifications as an active senior judge set forth in paragraphs (a)(2) and (c).

(B) An applicant for inactive senior judge status must submit an application to the AOC declaring whether the judge continues to meet qualifications set forth in paragraph (a)(1).

(2) After receiving an application, the AOC will, for active senior judges, assemble the judicial education records, survey scores, records of formal and informal sanctions, performance improvement plans, if any, and any information requested by the Judicial Council. The AOC will provide the application and any assembled information to the Judicial Council, with a copy to the applicant for reappointment as an active or inactive senior judge.

(3) After considering all information in a session closed in compliance with Rule 2-103, the Judicial Council will determine whether:

(A) The applicant for reappointment as an active senior judge meets qualifications for reappointment set forth in paragraphs (a)(2) and (c), and standards of performance set forth in paragraph (f).

(B) The applicant for reappointment as an inactive senior judge meets qualifications for reappointment set forth in paragraph (a)(1).

(4) If the Judicial Council finds that the applicant does not meet qualifications for reappointment or the standards of performance, the Council will:

(A) Notify the applicant of the Judicial Council's decision within five days of the Judicial Council's meeting, including a description of the reasons for the Council's decision;

(B) Invite the applicant to meet with the Judicial Council and provide information challenging the Judicial Council's decision on qualifications or standards of performance; and

(C) In a session closed in compliance with Rule 2-103, review information challenging the Council's decision and provide the applicant adequate time to present evidence and arguments in favor of reappointment.

(5) The Judicial Council will:

(A) In an open session, approve its final decisions regarding each applicant's qualifications for reappointment as a senior judge;

(B) Notify the applicant in writing if the Judicial Council's final decision is that the applicant does not meet the qualifications for reappointment; and

(C) Notify the Supreme Court of the final decisions regarding each applicant's qualifications for reappointment as a senior judge.

(6) An applicant who receives notice from the Judicial Council under paragraph (5) may, within 14 days of the date the Judicial Council sent the notice, submit to the Appellate Court Administrator a written explanation on why the applicant should be reappointed as an inactive senior judge or active senior judge.

(7) The Supreme Court will review each applicant's information. With the concurrence of a majority of the members of the Supreme Court, the Chief Justice may reappoint the judge as an inactive senior judge or active senior judge.

(e) **Performance Evaluation.**

(1) The performance of active senior judges is evaluated based on surveys completed by:

(A) Attorneys appearing before the active senior judge;

(B) For non-appellate active senior judges,

(i) the presiding judge, the trial court executive or clerk of court, and court staff in the district in which the senior judge primarily serves; and

(ii) jurors, if any, involved in cases tried by the senior judge.

(C) For appellate active senior judges, the Court of Appeals presiding judge, the clerk of court, court staff, and appellate law clerks, involved in cases assigned to the senior judge.

(2) The AOC will administer, compile, and score the surveys. Attorney, juror, law clerk, and court staff survey responses and scores will be anonymized.

(3) The AOC will provide a summary of survey responses and scores to the senior judge, the presiding judge, and the Judicial Council.

(f) **Standards of performance for active senior judges.**

(1) Standards of performance on surveys by attorneys evaluate whether the senior judge:

(A) Demonstrates understanding of the substantive law and any relevant rules of procedure and evidence;

(B) Is attentive to factual and legal issues before the court;

(C) Adheres to precedent and is able to clearly explain departures from precedent;

(D) Grasps the practical impact on the parties of the senior judge's rulings, including the effect of delay and increased litigation expense;

(E) Is able to clearly explain the factual and legal basis for the judge's ruling in any written orders or decisions;

(F) Demonstrates courtesy toward attorneys, court staff, and others in the court;

(G) Maintains decorum in the courtroom;

(H) Demonstrates judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(I) Is prepared for hearings or oral argument;

(J) Avoids impropriety or the appearance of impropriety;

(K) Displays fairness and impartiality toward all parties; and

(L) Issues orders and decisions without unnecessary delay.

(2) Standards of performance on surveys by presiding judges, jurors, law clerks, and court staff evaluate whether the senior judge:

(A) Demonstrates willingness to regularly accept assignments;

(B) Demonstrates ability and willingness to comply with established practices in the district;

(C) Demonstrates ability and willingness to use the courts' case management systems and applications in all cases;

(D) Effectively manages court calendars;

(E) Complies with performance and training recommendations or performance plans established by the presiding judge;

(F) Demonstrates courtesy toward attorneys, court staff, and others in the court;

(G) Demonstrates judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(H) Is prepared for hearings or oral argument;

(I) Avoids impropriety or the appearance of impropriety; and

(J) Issues orders and decisions without unnecessary delay.

(3) Survey scoring.

(A) Each question on the survey has six possible responses: Far Above Standards (5), Above Standards (4), Meets Standards (3), Below Standards (2), Far Below Standards (1), or No Personal Knowledge.

(B) The overall performance of an active senior judge is satisfactory if the average score on all questions is three or above.

(4) Performance Improvement.

(A) A presiding judge of the district that an active senior judge primarily serves may prepare a performance improvement plan if the survey scores indicate below standards performance by the senior judge or if the presiding judge identifies performance concerns. If the senior judge serves multiple districts, the performance improvement plan may be prepared in consultation with presiding judges from those districts.

(B) The performance improvement plan must outline specific expectations and areas needing improvement.

(C) The presiding judge will review a senior judge's progress on the performance improvement plan 90 days after the plan is initially drafted. The presiding judge may continue the performance improvement plan for another 90 days or conclude the plan.

(g) **Term of office.**

(1) **Active senior judges.** The initial term of office of an active senior judge less than age 75 years is until June 30 of the second year following appointment The initial term of office of an active senior judge age 75 years or more is until June 30 of the first year following appointment. A subsequent term of office of an active senior judge less than 75 years is three years or until June 30 of the year

in which the judge reaches age 75, whichever is shorter. A subsequent term of office of an active senior judge age 75 years or more is one year.

(2) **Inactive senior judges.** The initial term of office of an inactive senior judge is until June 30 of the third year following appointment. A subsequent term of office of an inactive senior judge is three years.

(3) All subsequent appointments begin on July 1.

(4) The Supreme Court may modify the terms of or withdraw an appointment with or without cause.

(h) **Changes to senior judge status**.

(1) An active senior judge may convert to inactive status during the term of appointment if the senior judge sends written notice of the change in status to the Chief Justice of the Supreme Court and the State Court Administrator or the Administrator's designee. An active senior judge who converts to inactive status may not receive an incentive benefit under Rule 3-501 while on inactive status.

(2) A senior judge who converts to inactive status may return to active status for the remainder of the senior judge's unexpired term if the senior judge sends written notice of the judge's intent to return to active status to the Chief Justice of the Supreme Court and to the State Court Administrator or the Administrator's designee.

(3) A senior judge who resigns from senior judge service during the term of appointment must send written notice to the Chief Justice of the Supreme Court and to the State Court Administrator or the Administrator's designee.

(i) Assignment and authority.

(1) The Supreme Court authorizes an active senior judge appointed under this rule to perform judicial duties when:

(A) assigned by a presiding judge to a case, calendar, or specified period in a court over which the presiding judge has administrative authority; or

(B) assigned by the Chief Justice to any court other than the Supreme Court.

(2) An assignment will comply with the applicable administrative and budget requirements in Rule 3-108 of the Utah Code of Judicial Administration.

(3) An assignment will be made by written order. An assignment made by a presiding judge is subject to the order and notice requirements in Rule 3-113 of the Utah Code of Judicial Administration. A copy of each assignment order must be maintained by the state court administrator or designee.

(4) During an assignment, an active senior judge has all the authority of the office of a judge of the court to which the assignment is made. An active or inactive senior judge may solemnize marriages and administer oaths of office regardless of assignment status.

~~(i) Authority. An active or inactive senior judge may solemnize marriages and administer oaths of office. An active senior judge, during an assignment, has all the authority of the office of a judge of the court to which the assignment is made.~~