

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

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3 **Intent**

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

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7 **Applicability**

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

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10 **Statement of the Rule**

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

14
15 ~~(1)(B) The Judicial Council will transmit its certification to JPEC by the deadline established~~
16 ~~in the Utah Administrative Code.~~

17
18 (2) **Definition of case under advisement.**

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

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

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

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

34
35 ~~(2)(B) A case is no longer under advisement when the trial court judge makes a decision on~~
36 ~~the issue that is under advisement or on the entire case. The final determination occurs~~
37 ~~when the trial court judge resolves the pending issue by announcing the decision on the~~
38 ~~record or by issuing a written decision, regardless of whether the parties are required to~~
39 ~~subsequently submit a final order memorializing the decision for the judge’s signature.~~

40
41 (3) **Case under advisement performance standards.**

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

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

46
47 (3)(B) **Court of Appeals judge.** A judge of the Court of Appeals demonstrates satisfactory
48 performance by:

49
50 (3)(B)(i) circulating not more than ~~an average of~~ three principal opinions per calendar
51 year more than six months after submission ~~with no more than half of the maximum~~
52 ~~exceptional cases in any one calendar year;~~ and

53
54 (3)(B)(ii) achieving a final average time to circulation of a principal opinion of not more
55 than 120 days after submission.

56
57 (3)(C) **Trial court judge.** A trial court judge demonstrates satisfactory performance by
58 holding:

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

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

64
65 ~~(3)(C)(iii) A case is no longer under advisement when the trial court judge makes a~~
66 ~~decision on the issue that is under advisement or on the entire case.~~

67
68 (4) **Case under advisement performance standards—compliance.** A judge or justice shall
69 decide all matters submitted for decision within the applicable time period ~~s prescribed by this~~
70 ~~rule in paragraph (3)~~, unless circumstances causing a delayed decision are beyond the judge's
71 or justice's personal control.

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

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

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

81
82 (6) **Physical and mental competence performance standard.** Satisfactory performance is
83 established if the response of the judge or justice demonstrates physical and mental
84 competence to serve in office and if the Council finds the responsive information to be complete
85 and correct. The Council may request a statement by an examining physician.

86

87 **(7) Reporting requirements.**

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

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

100

101 **(8) Judicial Council certification.**

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

104 (8)(A)(i) Compliant;

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

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

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

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

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121 *Effective: May 1, 2024*