

1 **Rule 3-104. Presiding judges.**

2 Intent:

3 To establish the procedure for election, term of office, role, responsibilities and authority of presiding
4 judges and associate presiding judges.

5 Applicability:

6 This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile
7 Courts.

8 Statement of the Rule:

9 (1) Election and term of office.

10 (1)(A) Presiding judge. The presiding judge in multi-judge courts shall be elected by a majority vote of
11 the judges of the court. The presiding judge's term of office shall be at least two years. A district, by
12 majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as
13 presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be
14 appointed by the presiding officer of the Council to serve for two years.

15 (1)(B) Associate presiding judge.

16 (1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the
17 office of associate presiding judge. An associate presiding judge shall be elected in the same manner and
18 serve the same term as the presiding judge in paragraph (1)(A).

19 (1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the
20 responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned
21 by the presiding judge or by the court.

22 (1)(C) A presiding judge or associate presiding judge may be removed as the presiding judge or
23 associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or
24 associate presiding judge shall then be selected as provided in this rule.

25 (2) Court organization.

26 (2)(A) Court en banc.

27 (2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court
28 and the court executive, to discuss and decide court business. The presiding judge has the discretion to
29 excuse the attendance of the court executive from court en banc meetings called for the purpose of
30 discussing the performance of the court executive. In single-judge courts, the judge shall meet with the
31 court executive to discuss and decide court business.

32 (2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge
33 nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

34 (2)(A)(iii) Each court shall have a minimum of four meetings each year.

35 (2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known
36 method on how matters may be placed on the agenda.

37 (2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges
38 may call additional meetings as necessary.

39 (2)(A)(vi) Minutes of each meeting shall be taken and preserved.

40 (2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court
41 invitation only.

42 (2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment
43 of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

44 (2)(B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if
45 any, are absent from the court, an acting presiding judge shall be appointed. The method of designating
46 an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily
47 be informed shall be notified of the judge acting as presiding judge.

48 (3) Administrative responsibilities and authority of presiding judge.

49 (3)(A)(i) Generally. The presiding judge is charged with the responsibility for the effective operation of
50 the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and
51 directives of the Council as they pertain to the administration of the courts, orders of the court en banc
52 and supplementary rules. The presiding judge has the authority to delegate the performance of non-
53 judicial duties to the court executive. When the presiding judge acts within the scope of these
54 responsibilities, the presiding judge is acting within the judge's judicial office.

55 (3)(A)(ii) Caseload. Unless the presiding judge determines it to be impractical, there is a presumption
56 that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient
57 time to devote to the management and administrative duties of the office. The extent of the caseload
58 reduction shall be determined by each district.

59 (3)(A)(iii) Appeals. Any judge of the judicial district may ask the Chief Justice or Judicial Council to
60 review any administrative decision made by the presiding judge of that district.

61 (3)(B) Coordination of judicial schedules.

62 (3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and
63 be responsible for an orderly plan of judicial absences from court duties.

64 (3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding
65 judge consistent with Rule 3-103(4).

66 (3)(C) Authority to appoint senior judges.

67 (3)(C)(i) The presiding judge is authorized to use senior judge coverage for up to 14 judicial days if a
68 judicial position is vacant or if a judge is absent due to illness, accident, or disability. Before assigning a
69 senior judge, the presiding judge will consider the priorities for requesting judicial assistance established
70 in Rule 3-108. The presiding judge may not assign a senior judge beyond the limits established in Rule
71 11-201(6).

72 (3)(C)(ii) The presiding judge will notify the State Court Administrator when a senior judge assignment
73 has been made.

74 (3)(C)(iii) If more than 14 judicial days of coverage will be required, the presiding judge will promptly
75 present to the State Court Administrator a plan for meeting the needs of the court for the anticipated
76 duration of the vacancy or absence and a budget to implement that plan. The plan should describe the
77 calendars to be covered by judges of the district, judges of other districts, and senior judges. The budget
78 should estimate the funds needed for travel by judges and for time and travel by senior judges.

79 (3)(C)(iv) If any part of the proposed plan is contested by the State Court Administrator, the plan will
80 be reviewed by the Management Committee of the Judicial Council for final determination.

81 (3)(D) Court committees. The presiding judge shall, where appropriate, make use of court committees
82 composed of other judges and court personnel to investigate problem areas, handle court business and
83 report to the presiding judge and/or the court en banc.

84 (3)(E) Outside agencies and the media.

85 (3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such
86 as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association
87 leaders, probation and parole officers, county governmental officials, civic organizations and other state
88 agencies. The presiding judge shall be the primary representative of the court.

89 (3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive
90 shall represent the court and make statements to the media on matters pertaining to the total court and
91 provide general information about the court and the law, and about court procedures, practices and
92 rulings where ethics permit.

93 (3)(F) Docket management and case and judge assignments.

94 (3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement
95 improved methods and systems of managing dockets.

96 (3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court
97 rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

98 (3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The
99 presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other
100 appropriate resources when needed to handle the workload of the court.

101 (3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary
102 assistance to expedite the disposition of cases.

103 (3)(G) Court executives.

104 (3)(G)(i) The presiding judge shall review the proposed appointment of the court executive made by
105 the State Court Administrator and must concur in the appointment before it will be effective. The
106 presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring
107 in the appointment of a court executive.

108 (3)(G)(ii) The presiding judge for the respective court level and the state level administrator shall
109 jointly develop an annual performance plan for the court executive.

110 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding judge in the
111 preparation of an evaluation of the court executive's performance for the previous year, also taking into
112 account input from all judges in the district.

113 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the court executive,
114 including coordination of annual leave.

115 (3)(G)(v) Pursuant to Council policy and the direction of the state level administrator, the court
116 executive has the responsibility for the day-to-day supervision of the non-judicial support staff and the
117 non-judicial administration of the court. The presiding judge, in consultation with the judges of the
118 jurisdiction, shall coordinate with the court executive on matters concerning the support staff and the
119 general administration of the court including budget, facility planning, long-range planning, administrative
120 projects, intergovernmental relations and other administrative responsibilities as determined by the
121 presiding judge and the state level administrator.

122 (3)(H) Courtrooms and facilities. The presiding judge shall direct the assignment of courtrooms and
123 facilities.

124 (3)(I) Recordkeeping. Consistently with Council policies, the court executive, in consultation with the
125 presiding judge, shall:

126 (3)(I)(i) coordinate the compilation of management and statistical information necessary for the
127 administration of the court;

128 (3)(I)(ii) establish policies and procedures and ensure that court personnel are advised and aware of
129 these policies;

130 (3)(I)(iii) approve proposals for automation within the court in compliance with administrative rules.

131 (3)(J) Budgets. The court executive, in consultation with the presiding judge, shall oversee the
132 development of the budget for the court. In contract sites, the court executive shall supervise the
133 preparation and management of the county budget for the court on an annual basis and in accordance
134 with the Utah Code.

135 (3)(K) Judicial officers. In the event that another judge or commissioner of the court fails to comply
136 with a reasonable administrative directive of the presiding judge, interferes with the effective operation of
137 the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial
138 Conduct, the presiding judge may:

139 (3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the
140 position taken and consult with the judge or commissioner.

141 (3)(K)(ii) Discuss the position with other judges and reevaluate the position.

142 (3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

143 (3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy,
144 education or treatment.

145 (3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different
146 case assignment.

147 (3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

148 (3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the
149 problem and where the refusal or conduct is willful, continual, and the presiding judge believes the
150 conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem
151 to the Council or the Judicial Conduct Commission.

152 (3)(L) Cases under advisement.

153 (3)(L)(i) A case is considered to be under advisement when the entire case or any issue in the case
154 has been submitted to the judge for final determination. The final determination occurs when the judge
155 resolves the pending issue by announcing the decision on the record or by issuing a written decision,
156 regardless of whether the parties are required to subsequently submit for the judge's signature a final
157 order memorializing the decision.

158 (3)(L)(ii) Once a month each judge shall submit a statement on a form to be provided by the State
159 Court Administrator notifying the presiding judge of any cases or issues held under advisement for more
160 than two months and the reason why the case or issue continues to be held under advisement.

161 (3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under
162 advisement for more than two months to the appropriate state level administrator and indicate the
163 reasons why the case or issue continues to be held under advisement.

164 (3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level
165 administrator shall report that fact to the Council.

166 (3)(M) Board of judges. The presiding judge shall serve as a liaison between the court and the Board
167 for the respective court level.

168 (3)(N) Supervision and evaluation of court commissioners. The presiding judge is responsible for the
169 development of a performance plan for the Court Commissioner serving in that court and shall prepare an
170 evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and
171 evaluation shall be maintained in the official personnel file in the Administrative Office.

172 (3)(O) Magistrate availability. The presiding judge in a district court shall consult with the justice court
173 administrator to develop a rotation of magistrates that ensures regular availability of magistrates within
174 the district. The rotation shall take into account each magistrate's caseload, location, and willingness to
175 serve.