

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

4 To establish the procedure for election, term of office, role, responsibilities and authority of
5 presiding judges and associate presiding judges.
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7 **Applicability:**

8 This rule shall apply to presiding judges and associate presiding judges in the District and
9 Juvenile Courts.
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11 **Statement of the Rule:**

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13 **(1) Election and term of office.**
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15 (1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a
16 majority vote of the judges of the court. The presiding judge's term of office shall be at
17 least two years. A district, by majority vote of the judges of the court, may re-elect a
18 judge to serve successive terms of office as presiding judge. In the event that a majority
19 vote cannot be obtained, the presiding judge shall be appointed by the presiding officer
20 of the Council to serve for two years.
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22 **(1)(B) Associate presiding judge.**
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24 (1)(B)(i) In a court having more than two judges, the judges may elect one judge
25 of the court to the office of associate presiding judge. An associate presiding
26 judge shall be elected in the same manner and serve the same term as the
27 presiding judge in paragraph (1)(A).
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29 (1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge
30 shall assume the responsibilities of the presiding judge. The associate presiding
31 judge shall perform other duties assigned by the presiding judge or by the court.
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33 **(1)(C) Removal.** A presiding judge or associate presiding judge may be removed as the
34 presiding judge or associate presiding judge by a two-thirds vote of all judges in the
35 district. A successor presiding judge or associate presiding judge shall then be selected
36 as provided in this rule.
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38 **(2) Court organization.**
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40 **(2)(A) Court en banc.**
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42 (2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including
43 all judges of the court and the court executive, to discuss and decide court
44 business. The presiding judge has the discretion to excuse the attendance of the
45 court executive from court en banc meetings called for the purpose of discussing
46 the performance of the court executive. In single-judge courts, the judge shall
47 meet with the court executive to discuss and decide court business.
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49 (2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither
50 the presiding judge nor associate presiding judge, if any, is present, the presiding
51 judge's designee shall preside.

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

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

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

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

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

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

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70 (2)(B) **Absence of presiding judge.** When the presiding judge and the associate
71 presiding judge, if any, are absent from the court, an acting presiding judge shall be
72 appointed. The method of designating an acting presiding judge shall be at the discretion
73 of the presiding judge. All parties that must necessarily be informed shall be notified of
74 the judge acting as presiding judge.

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76 (3) **Administrative responsibilities and authority of presiding judge.**

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78 (3)(A) **General—Caseload—Appeals**

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

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

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

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99 (3)(B) **Coordination of judicial schedules.**

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

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

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

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

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

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

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

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

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

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

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

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

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

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

151 (3)(G) **Court executives.**

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

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

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

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

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170 (3)(G)(v) Pursuant to Council policy and the direction of the state level
171 administrator, the court executive has the responsibility for the day-to-day
172 supervision of the non-judicial support staff and the non-judicial administration of
173 the court. The presiding judge, in consultation with the judges of the jurisdiction,
174 shall coordinate with the court executive on matters concerning the support staff
175 and the general administration of the court including budget, facility planning,
176 long-range planning, administrative projects, intergovernmental relations and
177 other administrative responsibilities as determined by the presiding judge and the
178 state level administrator.

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180 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of
181 courtrooms and facilities.

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

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

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

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

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

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200 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court
201 fails to comply with a reasonable administrative directive of the presiding judge,

202 interferes with the effective operation of the court, abuses his or her judicial position,
203 exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge
204 may:

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206 (3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the
207 directive given or the position taken and consult with the judge or commissioner.
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209 (3)(K)(ii) Discuss the position with other judges and reevaluate the position.
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211 (3)(K)(iii) Present the problem to the court en banc or a committee of judges for
212 input.
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214 (3)(K)(iv) Require the judge or commissioner to participate in appropriate
215 counseling, therapy, education or treatment.
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217 (3)(K)(v) Reassign the judge or commissioner to a different location within the
218 district or to a different case assignment.
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220 (3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.
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222 (3)(K)(vii) In the event that the options listed above in subsections (i) through (vi)
223 do not resolve the problem and where the refusal or conduct is willful, continual,
224 and the presiding judge believes the conduct constitutes a violation of the Code
225 of Judicial Conduct, the presiding judge shall refer the problem to the Council or
226 the Judicial Conduct Commission.
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228 (3)(L) **Cases under advisement.**
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230 (3)(L)(i) A case is considered to be under advisement ~~when the entire case or~~
231 ~~any issue in the case has been submitted to the judge for final determination. For~~
232 ~~purposes of this rule, "submitted to the judge" is defined as follows: if it meets the~~
233 ~~criteria outlined in rule 3-101.~~
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235 ~~(3)(L)(i)(a) When a matter requiring attention is placed by staff in the~~
236 ~~judge's personal electronic queue, inbox, personal possession, or~~
237 ~~equivalent;~~
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239 ~~(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all~~
240 ~~hearings or oral argument held on the specific motion or matter; or~~
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242 ~~(3)(L)(i)(c) If further briefing is required after a hearing or oral argument,~~
243 ~~when all permitted briefing is completed, a request to submit is filed, if~~
244 ~~required, and the matter is placed by staff in the judge's personal~~
245 ~~electronic queue, inbox, personal possession, or equivalent.~~
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247 ~~A case is no longer under advisement when the judge makes a decision~~
248 ~~on the issue that is under advisement or on the entire case.~~
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250 ~~The final determination occurs when the judge resolves the pending issue~~
251 ~~by announcing the decision on the record or by issuing a written decision,~~

~~regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.~~

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

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

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

(3)(L)(iv) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If ~~a judge~~the state level administrator determines that a judge has willfully failed to submit a statement ~~for two consecutive months~~, the state level administrator shall notify the Management Committee.

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

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

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

Effective May/November 1, 202_3