

1 Rule 11-201. Senior Judges.

2 Intent:

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

5 Applicability:

6 This rule ~~shall apply~~ **applies** to senior judges of courts of record. The term "judge" includes justices of
7 the Supreme Court.

8 Statement of the Rule:

9 **(a)(1) Qualifications.** ~~(1)(A)~~ A judge may apply to become a senior judge, on either inactive or active
10 status.

11 **(1) ~~(1)(B)~~ Inactive senior judge.** A judge is qualified to be an inactive senior judge if the judge:

12 **(A) ~~(1)(B)(i)~~** was retained in the last election for which the judge stood for election;

13 **(B) ~~(1)(B)(ii)~~** voluntarily resigned from judicial office, **voluntarily** retired ~~upon reaching the~~
14 ~~mandatory retirement age~~, or, ~~if~~ involuntarily retired due to disability, **but** recovered from or
15 accommodated that disability;

16 **(C)** did not resign from office as a result of negotiations with the Judicial Conduct Commission
17 or while a complaint against the judge was pending before the Supreme Court or the Judicial
18 Conduct Commission;

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

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

22 **(F) ~~(1)(B)(iii)~~** demonstrates appropriate ability and character;

23 **(G) ~~(1)(B)(iv)~~** is admitted to the practice of law in Utah **and holds an active or inactive Utah State**
24 **Bar license**, but does not practice law; **and**

25 **(H) ~~(1)(B)(v)~~** is eligible to receive compensation under the Judges' Retirement Act, subject only
26 to attaining the appropriate age. ~~and~~

27 ~~(1)(B)(vi) is appointed by the Supreme Court~~

28 (2) ~~(1)(C)~~ **Active senior judge.** A judge is qualified to be an active senior judge if the
29 judge:

30 (A) ~~(1)(C)(i)~~ meets the qualifications of an inactive senior judge;

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

33 (C) ~~(1)(C)(ii)~~ is a current resident of Utah and is available to take cases;

34 (D) ~~(1)(C)(iii)~~ is physically and mentally able to perform the duties of judicial office;

35 (E) ~~(1)(C)(iv) maintains familiarity~~ is familiar with current statutes, rules, case law,
36 remote hearing technology, and court case management systems, such as CORIS for
37 district courts, CARE for juvenile courts, AIS for appellate courts, and Workspace;
38 ~~and remote hearing technology;~~

39 (F) ~~(1)(C)(v)~~ satisfies the education requirements ~~of an active judge~~ set forth in Rule
40 3-403;

41 ~~(1)(C)(vi) attends the annual judicial conference;~~

42 ~~(1)(C)(vii) accepts assignments, subject to being called, at least two days per calendar~~
43 ~~year;~~

44 (G) ~~(1)(C)(viii)~~ agrees to conform to the Code of Judicial Administration and the
45 Code of Judicial Conduct and other rules of the Supreme Court; and ~~and the Code~~
46 ~~of Judicial Administration; and rules of the Supreme Court;~~

47 (H) maintains an active Utah State Bar license.

48 ~~(1)(C)(ix) obtains results on the most recent judicial performance evaluation~~
49 ~~prior to termination of service sufficient to have been recommended for~~
50 ~~retention, regardless of whether the evaluation was conducted for self-improvement~~
51 ~~or certification;~~

52 ~~(1)(C)(x) continues to meet the requirements for judicial retention as those~~
53 ~~requirements are determined by the Judicial Council to be applicable to active senior~~
54 ~~judges;~~

55 ~~(1)(C)(xi) undergoes a performance evaluation every eighteen months following an~~

56 ~~initial term as an active senior judge;~~

57 ~~(1)(C)(xii) takes and subscribes an oath of office to be maintained by the state court~~
58 ~~administrator or the administrator's designee; and~~

59 ~~(1)(C)(xiii) is appointed by the Supreme Court as an active senior judge.~~

60 ~~(2) Disqualifications. A judge is not qualified to be an active senior judge if the judge:~~

61 ~~(2)(A) was removed from office or involuntarily retired on grounds other than disability;~~

62 ~~(2)(B) was suspended during the judge's final term of office or final six years in office, whichever~~
63 ~~is greater;~~

64 ~~(2)(C) has resigned from office as a result of negotiations with the Judicial Conduct Commission or~~
65 ~~while a complaint against the applicant was pending before the Supreme Court or pending before~~
66 ~~the Judicial Conduct Commission after a finding of reasonable cause; and~~

67 ~~(2)(D) has been subject to any order of discipline for conduct as a senior judge.~~

68 ~~(b) (5) Application and appointment.~~

69 ~~(1) (5)(A) To be appointed a senior judge, a judge shall~~ must:

70 (A) Submit an application to the Administrative Office of the Courts (AOC) on a form provided
71 by the AOC. ~~apply to the Judicial Council for either inactive or active status and shall~~
72 ~~submit relevant information as requested by the Judicial Council.~~

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

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

78 ~~(5)(B) The applicant shall:~~

79 ~~(5)(B)(i) provide the Judicial Council with the record of all orders of discipline entered by the~~
80 ~~Supreme Court;~~

81 ~~(5)(B)(ii) declare whether at the time of the application there is any complaint against the~~
82 ~~applicant pending before the Supreme Court or pending before the Judicial Conduct~~

83 ~~Commission after a finding of reasonable cause; and~~

84 ~~(5)(B)(iii) declare whether at the time of the application there is any criminal charge, other than~~
85 ~~an infraction, pending against the applicant.~~

86 ~~(5)(B)(iv) Judges who decline to participate in an attorney survey in anticipation of retirement~~
87 ~~may use the results of an earlier survey to satisfy paragraph (1)(C)(ix).~~

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

92 (3) ~~(5)(e)(i)~~ After considering all information in a session closed in compliance with Rule 2-
93 103, ~~including any performance evaluation conducted under rule 3-111, the most recent~~
94 ~~Judicial Performance Evaluation Commission evaluations and the need for senior judges, the~~
95 Judicial Council ~~shall~~ will determine and notify the Supreme Court ~~that~~ whether the applicant
96 meets the qualifications for an appointment as an active or inactive senior judge.

97 ~~(5)(C)(ii) the applicant meets the qualifications for appointment as an active or~~
98 ~~inactive senior judge, and the Council recommends the appointment of the applicant~~
99 ~~as an inactive or active senior judge;~~

100 ~~(5)(C)(iii) the applicant meets the qualifications for appointment as an inactive or active~~
101 ~~senior judge, but based on the need for senior judges at the time of application, the~~
102 ~~Council does not recommend appointment of the applicant; or~~

103 ~~(5)(C)(iv) the applicant does not meet the qualifications for appointment as an~~
104 ~~inactive or active senior judge.~~

105 (4) ~~(6)(A)~~ The Judicial Council ~~shall~~ will inform an applicant, in writing, if the Judicial Council
106 notifies the Supreme Court that the applicant does not meet qualifications for appointment.
107 ~~or if the Council does not recommend appointment.~~

108 (5) ~~(6)(B)~~ An applicant who receives notice from the Judicial Council under paragraph ~~(6)(A)~~
109 (4) may, within 14 days of the date the Judicial Council sent the notice, submit to the ~~Supreme~~
110 ~~Court~~ Appellate Court Administrator a written explanation on why the applicant should be
111 appointed as an active or inactive senior judge.

112 (6) ~~(6)(C)~~ The Supreme Court ~~shall~~ will review each applicant's information. ~~and the~~
113 ~~recommendation of the Judicial Council.~~ With the concurrence of a majority of the members

114 of the Supreme Court, the Chief Justice may appoint the judge as an active or inactive senior
115 judge.

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

119 **(c) Reappointment qualifications.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

169 (5) The Judicial Council will:

170 (A) In an open session, approve its final decisions regarding each applicant's

171 qualifications for reappointment as a senior judge;

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

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

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

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

183 **(e) Performance Evaluation.**

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

185 (A) Attorneys appearing before the active senior judge;

186 (B) For non-appellate active senior judges,

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

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

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

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

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

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

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

198 (A) Demonstrates understanding of the substantive law and any relevant rules of

- 199 procedure and evidence;
- 200 (B) Is attentive to factual and legal issues before the court;
- 201 (C) Adheres to precedent and is able to clearly explain departures from precedent;
- 202 (D) Grasps the practical impact on the parties of the senior judge's rulings, including the
203 effect of delay and increased litigation expense;
- 204 (E) Is able to clearly explain the factual and legal basis for the judge's ruling in any written
205 orders or decisions;
- 206 (F) Demonstrates courtesy toward attorneys, court staff, and others in the court;
- 207 (G) Maintains decorum in the courtroom;
- 208 (H) Demonstrates judicial demeanor and personal attributes that promote public trust and
209 confidence in the judicial system;
- 210 (I) Is prepared for hearings or oral argument;
- 211 (J) Avoids impropriety or the appearance of impropriety;
- 212 (K) Displays fairness and impartiality toward all parties; and
- 213 (L) Issues orders and decisions without unnecessary delay.
- 214 (2) Standards of performance on surveys by presiding judges, jurors, law clerks, and court
215 staff evaluate whether the senior judge:
- 216 (A) Demonstrates willingness to regularly accept assignments;
- 217 (B) Demonstrates ability and willingness to comply with established practices in the district;
- 218 (C) Demonstrates ability and willingness to use the courts' case management systems and
219 applications in all cases;
- 220 (D) Effectively manages court calendars;
- 221 (E) Complies with performance and training recommendations or performance plans
222 established by the presiding judge;
- 223 (F) Demonstrates courtesy toward attorneys, court staff, and others in the court;
- 224 (G) Demonstrates judicial demeanor and personal attributes that promote public trust and
225 confidence in the judicial system;

226 (H) Is prepared for hearings or oral argument;

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

228 (J) Issues orders and decisions without unnecessary delay.

229 (3) Survey scoring.

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

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

235 (4) Performance Improvement.

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

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

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

246 (g) ~~(3)~~ **Term of office.**

247 (1) **Active senior judges.** ~~(3)(A) The initial term of office of an inactive senior judge is until~~
248 ~~December 31 of the second year following appointment.~~ The initial term of office of an active
249 senior judge less than age 75 years is until ~~December 31~~ June 30 of the second year following
250 appointment ~~or until December 31 of the year in which the judge reaches age 75, whichever~~
251 ~~is shorter.~~ The initial term of office of an active senior judge age 75 years or more is until
252 ~~December 31~~ June 30 of the first year following appointment. ~~(3)(B) A subsequent term of~~
253 ~~office of an inactive senior judge is for three years.~~ A subsequent term of office of an active
254 senior judge less than 75 years is three years or until ~~December 31~~ June 30 of the year in

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

257 (2) **Inactive senior judges.** The initial term of office of an inactive senior judge is until June
258 30 of the third year following appointment. A subsequent term of office of an inactive senior
259 judge is three years.

260 (3) ~~(3)(C)~~ All subsequent appointments begin on ~~January 1~~ July 1.

261 (4) ~~(3)(D)~~ The Supreme Court may withdraw an appointment with or without cause.

262 (h) ~~(8)~~ **Changes to senior judge status.**

263 (1) ~~(8)(A)(i)~~ An active senior judge may convert to inactive status during the term of
264 appointment if the senior judge sends written notice of the change in status to the ~~C~~chief
265 ~~J~~justice of the Supreme Court and the ~~S~~state ~~C~~court ~~A~~administrator or the
266 ~~A~~administrator's designee. An active senior judge who converts to inactive status may
267 not receive an incentive benefit under Rule 3-501 while on inactive status.

268 (2) ~~(8)(A)(ii)~~ A senior judge who converts to inactive status may return to active status
269 for the remainder of the senior judge's unexpired term if the senior judge sends written
270 notice of the judge's intent to return to active status to the ~~C~~chief ~~J~~justice of the Supreme
271 Court and to the ~~S~~state ~~C~~court ~~A~~administrator or the ~~A~~administrator's designee.

272 (3) ~~(8)(A)(iii)~~ A senior judge who resigns from senior judge service during the term of
273 appointment ~~shall~~ **must** send written notice to the ~~C~~chief ~~J~~justice of the Supreme Court
274 and to the ~~S~~state ~~C~~court ~~A~~administrator or the ~~A~~administrator's designee.

275 (i) ~~(4)~~ **Authority.** An active or inactive senior judge may solemnize marriages **and administer**
276 **oaths of office.** An active senior judge, during an assignment, has all the authority of the office
277 of a judge of the court to which the assignment is made.

278 ~~(7)~~ **Assignment.**

279 ~~(7)(11)(A) An active senior judge may be assigned to any court other than the Supreme Court.~~

280 ~~(7)(11)(B) The state court administrator or the administrator's designee shall provide~~
281 ~~such assistance to the presiding judge and chief justice as requested and shall exercise~~
282 ~~such authority in making assignments as delegated by the presiding judge and chief~~
283 ~~justice.~~

284

~~(7)(11)(C) Notice of an assignment made under this rule shall be in writing and~~

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~~maintained by the state court administrator or the administrator's designee.~~