

Part 2

Judicial Confirmation Committee

SR3-3-201 Senate Judicial Confirmation Committee -- Membership.

- (1) The president shall:
 - (a) appoint a Senate Judicial Confirmation Committee of no more than seven senators, no more than five of whom are from the same political party; and
 - (b) designate one senator to act as chair of the committee.
- (2) The president may not convene the Senate to consider confirmation of a judicial appointee until the Senate Judicial Confirmation Committee has submitted its recommendation.

SR3-3-202 Senate Judicial Confirmation Committee -- Confirmation process.

- (1)
 - (a) The Senate Judicial Confirmation Committee shall comply with the procedures established in this rule.
 - (b) Each committee member shall ensure that records received by them that are classified "private," "protected," or "controlled" under Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, are released only if the requirements of that act are met.
- (2) After the Judicial Nominating Commission announces the nominees and forwards those names to the Office of Legislative Research and General Counsel as required by Utah Code Section 20A-12-104, that office shall provide the resume of each nominee to each member of the Senate.
- (3) When the governor provides the president of the Senate with the nominees' resumes, application materials, and other related documents, the president shall provide that information to the members of the Senate Judicial Confirmation Committee.
- (4) After the governor announces the appointee and provides the information required by Utah Code Section 67-1-2:
 - (a) the chair of the Senate Judicial Confirmation Committee shall direct the preparation of a news release which shall include:
 - (i) a brief description of the judicial position to be filled;
 - (ii) the name of the appointee;
 - (iii) a brief description of the functions of the Senate Judicial Confirmation Committee;
 - (iv) a request that members of the Senate wanting to make comments contact the chair or the Office of Legislative Research and General Counsel by the deadline specified in the news release, which may not be less than 10 business days after publication of the news release;
 - (v) a request that members of the public wanting to make comments contact the Office of Legislative Research and General Counsel by the deadline specified in the news release, which may not be less than 10 business days after publication of the news release; and
 - (vi) a notice that any person wanting to comment submit a written statement detailing the substance of their testimony, including the person's name, telephone number, and mailing address, to the Office of Legislative Research and General Counsel; and
 - (b) the Office of Legislative Research and General Counsel shall:
 - (i) provide the resume of the appointee and the news release described in this Subsection (4) to:
 - (A) each member of the Senate; and

- (B) the news media, including television, radio, and the major circulation newspapers in Salt Lake City and the geographical area served by the judicial office to be filled by the appointee; and
 - (ii) provide the appointee's resume, application materials, and other related documents to each member of the Senate Judicial Confirmation Committee.
- (5)
- (a) The chair of the Senate Judicial Confirmation Committee may direct its staff to investigate:
 - (i) the background, qualifications, and fitness for judicial office of the appointee generally; and
 - (ii) specific issues raised or revealed by any member of the committee, any senator, or any member of the public, or that may arise at any time during the Senate confirmation process.
 - (b) In conducting the investigation, committee staff may contact any person or organization that might have information about the nominee's fitness for judicial office.
 - (c) The chair may direct staff to ask the governor, the chair of the Judicial Nominating Commission, or both, whether or not certain facts revealed by the investigation were known to the governor or the nominating commission at the time the candidate was considered by either of them.
- (6)
- (a) The chair of the Senate Judicial Confirmation Committee shall provide public notice of each committee meeting.
 - (b) The public notice shall include an explanation that:
 - (i) any person wanting to testify regarding the appointee shall submit a written request to testify to the Office of Legislative Research and General Counsel at least 24 hours before the meeting is scheduled to begin; and
 - (ii) portions of the meeting may be closed under Utah Code Title 52, Chapter 4, Open and Public Meetings Act.
- (7) Before convening a meeting of the Senate Judicial Confirmation Committee, the chair shall:
- (a) review all written statements from persons desiring to address the committee regarding the governor's appointee;
 - (b) review all records to be distributed to the committee and classify each record as "public" or "private" by applying the standard contained in Subsection 63G-2-302(1)(f)(i);
 - (c) determine which persons making a timely request to testify under Subsection (6)(a) may address the committee; and
 - (d) if necessary, establish reasonable time limits for public comment.

SR3-3-203 Senate Judicial Confirmation Committee -- Meeting process.

- (1) In conducting the Senate Judicial Confirmation Committee meeting:
- (a) the chair shall allow the appointee to address the committee before the committee hears any other testimony, after the last witness testifies before the committee, and before the committee makes its decision;
 - (b) the chair may hold committee meetings in the geographic area to be served by the judicial office; and
 - (c) the chair may allow testimony from any person wishing to testify, whether the person has submitted a written request to testify or not.
- (2) Before opening comments by the nominee, or at any other time during the meeting, the committee may close the committee meeting for any of the purposes outlined in Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

- (3) In determining whether to recommend that the nominee be confirmed or rejected by the Senate, the Senate Judicial Confirmation Committee shall:
- (a) review the appointee's resume, application materials, and any other documents or information related to the nominee's fitness for judicial office;
 - (b) review each written statement submitted to the committee;
 - (c) interview, under oath or affirmation, each judicial appointee;
 - (d) consider the oral testimony of persons testifying to the committee;
 - (e) base its decision regarding confirmation solely upon a consideration of the nominee's fitness for judicial office without regard to any partisan political consideration;
 - (f) vote on whether or not to recommend confirmation of the appointee to the Senate; and
 - (g) transmit its recommendation to the Senate in a form that identifies to the Senate the votes "for" and the votes "against" confirmation.

SR3-3-204 Copy to judicial nominee.

The Office of Legislative Research and General Counsel shall provide a copy of this rule to each judicial appointee seeking Senate confirmation.

SR3-3-205 Constitution takes precedence over these rules.

Nothing contained in SR3-3-201 through SR3-3-204 may be construed to limit the authority of the Senate as provided in Utah Constitution Article VIII, Section 8.