

IN THE COURT OF APPEALS OF MARYLAND
AMENDING ADMINISTRATIVE ORDERS AS TO THE JUDICIAL INSTITUTE AND
JUDICIAL ABSENCES FROM COURT

WHEREAS, The Judicial Institute of Maryland (hereinafter “Judicial Institute” or “Institute”) was created, on recommendation of the Committee on Judicial Education and Training, by Administrative Order dated August 24, 1981, which has been amended by Administrative Orders dated August 3, 1983, June 30, 1988, September 15, 1992, June 24, 1996, September 6, 1996, December 12, 2000, and September 18, 2006; and

WHEREAS, In addition to those programs offered by the Judicial Institute, the increasing number and diversity of educational and enrichment programs offered to Maryland judges each year, by agencies and departments of the Maryland Judiciary, which judges, other court officers and staff may be required to attend because of the specialized nature of their assignments, makes it appropriate to expand the scope of the governing Administrative Orders, to provide for better coordination of the scheduling of such courses and programs; and

WHEREAS, There is a need for discretion to permit judges who fulfill their two days per year educational requirement by attending and completing courses or programs not directly sponsored or produced by the Judicial Institute, as part of its regular curriculum, and require or seek additional educational opportunities through attendance at Institute courses and programs, to attend selected Institute courses or programs; and

WHEREAS, The increase in specialty docket assignments, such as family law courts, drug courts, and other problem-solving courts, both at the circuit court and the District Court level has made it desirable to establish, by Administrative Order, the educational requirements for judges undertaking such assignments; and

WHEREAS, Requiring, as is desirable, that all judges receive training in these specialty areas, either before or early in their assignment to such dockets, and that such training be updated may create the problem of jurisdictions having too many of their judges on administrative leave for required legal education, at the same or overlapping times, which must be ameliorated.

NOW, THEREFORE, I, Robert M. Bell, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 16th day of October 2009, that the Administrative Order dated, September 18, 2006, be rescinded and a new Order governing the Judicial Institute be adopted to read as follows:

1. Statement of Purpose. The Maryland Judiciary recognizes the value of judicial education as an effective means of enhancing the equitable and efficient administration of justice. The Judicial Institute was established to provide comprehensive, relevant, diverse and cost-effective continuing legal education to Maryland judges. It is the responsibility of the Institute to offer to the Judiciary, on an annual basis, a curriculum of general and specialized programs from which judges may select courses that will assist them in meeting their professional obligations.

The educational needs of masters shall be principally provided for by the Family Administration Department of the Administrative Office of the Courts; however, notice of Institute course and program offerings shall be given to masters and they may be admitted to such offerings as are relevant to their duties.

2. Judicial Institute of Maryland.

a. The Institute is responsible for the development, implementation and

evaluation of a program of in-state continuing education for all Maryland judges, both active and recalled, and is responsible to the Judicial Conference for judicial education and training as described in this Order.

b. A Board of Directors is established as the Institute's governing body to supervise this function.

c. The Board will be composed of 15 members: one judge from each of the appellate courts; four judges from the circuit courts; four judges from the District Court; one judge from the orphans' courts; one recalled retired judge; one representative each from the University of Maryland School of Law and University of Baltimore School of law; and a representative from MICPEL, Inc.

d. The Chairperson and all other members of the Board of Directors shall be appointed by the Chief Judge of the Court of Appeals. Appointment of the representatives from the University of Maryland School of Law and the University of Baltimore School of Law shall be made after consultation with the Deans of the respective schools. Appointment of a representative from MICPEL shall be made after consultation with the Chairperson of the Board of Trustees of MICPEL.

e. The term of the Chairperson of the Board of Directors is three years. The term of each other member of the Board of Directors is two years. At the end of a term, a member will continue to serve until a successor is appointed. Members serving on the Board as of the effective date of this Order shall serve for the remainder of the term for which they were appointed prior to the effective date of this Order.

f. The Institute will be staffed by personnel in the Administrative Office of the Courts.

3. Operations of the Judicial Institute.

a. The Institute will offer an annual curriculum, recruit and select

participating instructional staff, propose its annual budget, advertise Institute courses to the Maryland Judiciary, including recalled judges, masters, and judges of the orphans' courts, and make the necessary conference arrangements. It will offer support to instructional staff in setting course objectives, selecting instructional techniques, developing training aids, offering research services, assisting with instructional materials, and evaluating Institute programs.

b. Instructional staff shall be recruited and selected from members of the Maryland bench, at all court levels. In addition, instructors have the flexibility of contacting co-instructors or facilitators from the faculties of law schools and other professions that relate to the judicial system or the program's content. For specialized courses and regional conferences, instructors may be selected from other disciplines. The primary effort and budgetary allocations, however, will be directed to developing instructors from the Maryland bench. Use of budgeted funds for payment of honoraria or expenses to instructors must be approved in advance by the Chief Judge of the Court of Appeals.

c. Under the direction of the Judicial Institute's Board of Directors, instructional staff may be recruited and contacted by the Institute's administrative staff.

d. When a prospective instructor from the Maryland Judiciary has agreed to accept an instructional assignment, the Institute's administrative staff shall inform the Board of Directors and the administrative judge of that judge's court (if any) or, in the case of an orphans' court judge, the chief judge of that judge's court.

e. The administrative or chief judge shall work with the instructor judge in providing adequate course development time.

f. The instructor shall be encouraged to submit a course outline to the Judicial Institute at least three months prior to the scheduled course.

g. The Institute's administrative staff shall maintain ongoing contact with the instructors and provide any necessary preparatory services. The staff shall report regularly to the Chairperson of the Judicial Institute on the progress of each program's

development.

h. Course descriptions, times, locations, and application procedures shall be circulated to all members of the Judiciary, recalled retired judges, masters, and judges of the orphans' courts prior to the date of the course. Absent excusal by the Chief Judge of the Court of Appeals, each active or recalled retired judge shall attend one or more courses with a cumulative program length of two days per year, except as specifically otherwise allowed in this Order. Except as permitted under paragraph 5 of this Order, the selection of Institute speciality courses that last for two days or longer will limit the judge to that course selection. Instructional time will be counted toward available student time for Institute instructors, with leave for instructional time and student time governed by the Administrative Order on Judicial Absences from Court, as amended by this Order.

i. When a course has been over-subscribed, priority shall be determined on the basis of ranking of course choices, individual professional need, time of application, and bench assignment. Those judges who were not selected for an over-subscribed course will be rescheduled subject to the same priority, and to the extent possible, for their second choice for attendance. Notification of course acceptance will be sent to the applicant and the applicant's administrative judge (if any) or, in the case of a judge of an orphans' court, the applicant's chief judge.

j. The Institute's administrative staff shall develop instruments to evaluate each program and shall communicate the evaluation results to the Judicial Institute's Board of Directors and the individual instructor.

4. Funding of the Judicial Institute.

a. Basic funds for the operation of the Institute shall be allocated in the annual budget of the Administrative Office of the Courts.

b. Outside funding sources shall be developed to support several special

programs to expand the capability for participation in national judicial educational programs, and to provide research services to the instructional staff.

5. Educational Requirements in Addition to or in Lieu of the Two Days Per Year Standard of Paragraph 3(h) of This Order.

a. General. The DCM plans of various jurisdictions require circuit court judges to serve rotations through specialty docket divisions of the court, while other jurisdictions provide that the same speciality matters be included as part of the general assignment of each judge. The District Court, on the other hand, organizes the same or similar speciality case topics, as are relevant to its jurisdiction, as specialty dockets, but without committing particular judges to hear specific case types for fixed periods of time.

b. Family Law. Approximately once every 18 months, the Judicial Institute offers a three-day Family Law Curriculum (“Curriculum”). All circuit court judges and masters shall take and complete the first Curriculum following appointment as a judge or master.

Thereafter, unless he/she has completed the Curriculum within the prior three years, each circuit court judge and master entering a family court rotation (or general assignment of family law cases) for the first time, or upon each subsequent re-assignment, must take the first available Curriculum following commencement of his/her assignment.

Should a judge or master continue a consecutive period of service in the family court (or general assignment of family law cases) beyond three years, he/she should take the Curriculum when next offered, but in no event, later than five years after his/her initial assignment or re-assignment. In the event that the Curriculum is not offered during that time period, the judge or master must take and complete the Curriculum when next offered by the Institute.

Should the Institute offer a one-day family law refresher/update course in a

year in which a judge, having taken the three-day Curriculum within a three-year period, would be required to complete it again, he/she may satisfy the requirement by attending and completing the refresher update course.

c. Juvenile Courts. The Family Administration Department of the Administrative Office of the Courts, Foster Care Court Improvement Project, produces and hosts an annual multi-day conference, the CANDO Conference, designed to train juvenile court judges and masters. Before a judge or master sits in a juvenile court, or as soon after assignment thereto as is practicable, he/she must attend and complete the CANDO Conference given closest in time to the beginning of that service.

d. Problem-Solving Courts. The Administrative Office of the Courts, Office of Problem-Solving Courts, which includes Drug Courts, Mental Health Courts, and Truancy Courts, produces and hosts numerous training programs and conferences in support of its mission. A judge or master proposing to preside over a problem-solving court must complete, at a minimum, the following courses offered by the Office of Problem-Solving Courts prior to appointment to such assignment:

(1) Introduction and Orientation to Drug Court/Mental Health Court/Truancy Court (as appropriate); and

(2) Judicial Roles Training.

e. ASTAR. Judges approved by the Chief Judge of the Court of Appeals to initiate training as an Advanced Science & Technology Adjudication Resource (“ASTAR”) judge must:

(1) complete an initial two-year training regimen prescribed by ASTAR, which may include multi-day out-of-state programs; and

(2) Upon successful completion of the initial two-year regimen, and designation as an ASTAR Fellow, attend and complete one ASTAR continuing education program every two years following his/her Fellow designation, in order to maintain the designation.

The supervising authority for each judge in the ASTAR program is strongly encouraged to approve necessary educational leave for fulfillment of these requirements.

f. Business & Technology Judges.

(1) Background. In 2002, the Maryland Judiciary approved the establishment, in the DCM plans of the circuit courts, a new subset of the complex civil litigation track to accommodate emerging and complicated business and technology cases. The Chief Judge of the Court of Appeals, in consultation with County Administrative Judges, approved for specialized training and designation a cadre of judges, Business & Technology (“B&T”) judges, to manage and preside over cases accepted into the new track. In consultation with the Judicial Institute, the Maryland Business/Technology Case Management Program has prescribed a regimen of specialized training for B&T judges.

(2) Status. Although no new B&T judges have been designated since 2002, continuing specialized training has been offered, on new and emerging topics, to keep the B&T judges’ knowledge and preparation current, including select appellate judges on both appellate courts. To date, no minimum requirements for the amount or duration of initial or continuing training for B&T judges have been prescribed by the Maryland Business/Technology Case Management Program. The leadership of the Program, however, periodically designs and produces specialized training programs and encourages all B&T judges to attend and complete such courses or programs, offered through the Judicial Institute, in order to maintain designation as B&T judges.

Approving authorities are strongly encouraged to authorize necessary educational leave to enable B&T judges to attend and complete these programs.

6. Exceptions to Two Days Per Year Education Requirement.

- a. A judge may satisfy the two days per year educational requirement of

Paragraph 3(h) of this Order by attendance at a specialized program, whether sponsored or produced by the Judicial Institute (*e.g.*, attendance and completion of an ASTAR program of two days or longer, the CANDO Conference, designated B&T judge training, the Family Law Curriculum, and required problem-solving court training). Should a sitting judge satisfy the requirement at one of these specialized programs, but desire to attend additional days of courses or programs offered by the Institute, because doing so would benefit him/her carrying out his/her judicial duties, such judge may be permitted to attend by his/her County Administrative Judge, provided that there is no meaningful delay in the timely execution of the judge's adjudicative or administrative duties.

b. Because judicial educational opportunities must be balanced against the need to maintain docket coverage, the final decision as to when and how much educational or administrative leave shall be granted to individual judges, in order to complete required judicial education programs and courses relevant to a judge's assignment, is committed to the appropriate approving authority, as determined by the amended Administrative Order on Judicial Absences from Court.

7. Calendaring of Judicial Education Programs.

a. The Judicial Institute shall maintain, on the Maryland Judiciary's website, a current calendar of educational programs and courses offered by the Institute, for as far into the future as its curriculum is identified.

b. Other departments, agencies, commissioners, and committees of the Maryland Judiciary that propose to offer educational programs or courses for judges, masters, and other court officers or staff promptly shall supply to the Judicial Institute, after their curricula and schedules are known, the dates, times, locations and titles of the programs and courses to be offered in order to create a master calendar of educational programs and courses. This master calendar shall be maintained on the Judiciary's website.

c. In order to avoid a conflict with any Institute course or program previously scheduled, other departments, agencies, commissions, and committees of the Maryland Judiciary intending to offer programs or courses, as provided for in paragraph 7(b) above, shall consult with the Executive Director of the Judicial Institute, before committing to a date and location for any such intended course or program.

AND BE IT FURTHER ORDERED, that the Administrative Order on Judicial Absences, dated October 22, 2001, as amended on September 18, 2006, is further amended, in part, to read as follows:

13. Judicial Educational Programs

a. In-State

(1) Subject to paragraphs 2 and 4 of this Order, the appropriate approving authority shall allow a sitting circuit or district court judge to be absent from court, for up to 2 days or as otherwise allowed, to attend or teach a program of the Judicial Institute of Maryland. Additional educational leave may be granted where the requesting judge, by virtue of his or her specialized assignment or designation is required, by the October 16, 2009 Administrative Order as to the Judicial Institute, to attend and complete programs that extend beyond 2 days in a calendar year or otherwise satisfies the approving authority that the educational leave greater than two days per year is warranted for better and more efficient performance of his or her adjudicative or administrative duties. The latitude granted in the preceding sentence does not diminish any of the other considerations for acting on leave requests as provided in paragraph 4d(2)(d) of this Order. Administrative leave, as provided for under paragraph 21 of this Order, also may be approved for this purpose.

(2) Subject to paragraphs 2 and 4 of this Order, the appropriate administrative judge may allow a sitting circuit or district court judge to be absent from

court, for up to one day to attend an educational program within Maryland, other than a program of the Judicial Institute. The same latitude and procedures for considering requests for educational programs under paragraph 13a(1) of this Order is available for requests hereunder.

/s/ Robert M. Bell
Robert M. Bell
Chief Judge of the Court of Appeals

Filed: October 19, 2009

/s/ Bessie M. Decker
Bessie M. Decker
Clerk
Court of Appeals of Maryland