

MARYLAND JUDICIARY EMPLOYEE HANDBOOK

POLICIES & PROCEDURES

2020



1.1 Employment Relationship

The Maryland Judiciary employs more than 4,300 individuals, including judges, magistrates, clerks, commissioners, and administrative staff. The employment status ranges from full-time permanent to part-time temporary to contractual. Similarly, there is variation in the employment relationship, with some employees serving in an *at-will* capacity, which means that the employee or the Judiciary can terminate employment at any time, with or without cause. There is no contractual relationship between the Judiciary and *at-will* employees. Other employees are considered *for cause*, which means that there is a process by which the termination of their employment relationship is governed. The policies and procedures contained in this handbook provide a framework by which employees operate; however, they do not create an expressed or implied contract.

1.2 Employee Welcome Letter

Upon accepting employment with the Maryland Judiciary, employees receive a welcome letter outlining next steps that will ensure a smooth transition. See the example letters which are indicative of the basic information contained in the employee welcome letter. The contents may vary based on employment type, e.g., regular, temporary, exempt, etc.



ADMINISTRATIVE OFFICE OF THE COURTS
MARYLAND JUDICIAL CENTER
580 TAYLOR AVENUE
ANNAPOLIS, MARYLAND 21401

Pamela Harris
State Court Administrator
410-260-1295

December 15, 2016

Judiciary Employee
101 Court Street
Appeals, MD 12345

Dear Ms. Judiciary Employee,

Welcome to the Maryland Judiciary!

This letter is to confirm our offer and your acceptance of employment with the Maryland Judiciary, in the Regular position of _____ with the _____. Your Range is _____, for a salary of \$_____, which is contingent and subject to state funding allocation. Your official start date is January 1, 2017.

Please complete and forward the Demographic Data Form (see attachment) to OES@mdcourts.gov within two (2) days from the date of this letter. If you are unable to send the document by this date please contact The Office of Employment Services at 410-260-1731.

Required Paperwork:

Please visit the Maryland Judiciary New Employee Website at <http://www.mdcourts.gov/hr/neoindex.html> to **print the required orientation paperwork prior to your start date, and bring the paperwork with you on the first day you report to work.** Federal law requires all employers to verify the identities and work authorizations of all employees. This requirement applies to all individuals hired, regardless of race, nationality or ethnicity. Therefore, you will need to bring to the orientation sufficient documentation to complete the I-9 (Employment Eligibility Verification) form and verification of dependents, if applicable. Under Federal Law, if you cannot produce sufficient documentation to complete the I-9 within three days of your appointment date, you may be subject to termination.

You will receive a brief orientation on your first day of work to ensure that all of the necessary paperwork has been completed and you have had the opportunity to review the various benefits available to you as a Judiciary employee. A more comprehensive orientation may be offered at a later date, at which time you will receive additional information.

Please note that new employees are subject to a six-month probationary period, during which time your performance will be reviewed. Although you will earn annual leave during this six-month period, as a probationary employee you will not be permitted to use the leave until that period is over. You will, however, be permitted to use any sick or personal leave earned during the six-month period in accordance with Judiciary Human Resources policy. Please note that during your probationary period, you are considered an “at-will” employee, which means that either you or the Judiciary may terminate the employment relationship at any time, with or without cause for any reason that is not illegal or unconstitutional.

This position is an exempt position and therefore not eligible to receive cash overtime compensation in accordance with the Fair Labor Standards Act. However, per Judiciary Human Resources policy, this position may be eligible to earn compensatory leave.

We look forward to having you as part of the Maryland Judiciary. If you have any questions relative to your employment with the Maryland Judiciary, please contact my office at 410-260-1280.

Sincerely,

John Doe
Office of Classification, Salary and Recruitment

cc: Suzie Smith, Hiring Manger



ADMINISTRATIVE OFFICE OF THE COURTS
MARYLAND JUDICIAL CENTER
580 TAYLOR AVENUE
ANNAPOLIS, MARYLAND 21401

Pamela Harris
State Court Administrator
410-260-1295

July 1, 2017

Judiciary Employee
101 Court Street
Appeals, MD 12345

Dear Judiciary Employee,

Welcome to the Maryland Judiciary!

This letter is to confirm our offer and your acceptance of employment with the Maryland Judiciary, in the Regular position of _____ with the _____. Your Range is _____, for a salary of _____, which is contingent and subject to state funding allocation. Your official start date is July 15, 2017.

Please complete and forward the Demographic Data Form (see attachment) to OES@mdcourts.gov within two (2) days from the date of this letter. If you are unable to send the document by this date please contact The Office of Employment Services at 410-260-1731.

We have scheduled you for new employee orientation on your start date at 9:00 am at: **Office of Human Resources, located at 580 Taylor Avenue, Building A-1, Annapolis, MD 21401.** This orientation will take approximately 90 minutes. A map and directions are included for your convenience.

After the orientation meeting, you are to obtain your security badge at the Department of General Services, 29 St. John's Street, Annapolis, MD 21401. We will provide you with detailed directions and parking options.

Please visit the Maryland Judiciary New Employee Website at <http://www.mdcourts.gov/hr/neoindex.html> to **print the required orientation paperwork prior to your start date, and bring the paperwork with you on the first day you report to work.** Federal law requires all employers to verify the identities and work authorizations of all employees. This requirement applies to all individuals hired, regardless of race, nationality or ethnicity. Therefore, you will need to bring to the orientation sufficient documentation to complete the I-9 (Employment Eligibility Verification) form and verification of dependents, if applicable. Under Federal Law, if you cannot produce

sufficient documentation to complete the I-9 within three days of your appointment date, you may be subject to termination.

You will receive a brief orientation on your first day of work to ensure that all of the necessary paperwork has been completed and you have had the opportunity to review the various benefits available to you as a Judiciary employee. A more comprehensive orientation may be offered at a later date, at which time you will receive additional information.

Your position is considered “at-will” and, as such, either you or the Judiciary may end the employment relationship at any time, with or without cause for any reason that is not illegal or unconstitutional. This relationship remains in full force and effect, notwithstanding any statements or documents to the contrary. You will be asked to sign an “at-will” disclaimer during your orientation.

For the first six months of your employment you will not be eligible for tuition reimbursement. You are permitted to use leave accrued in accordance with Judiciary Human Resources policy.

This position is an exempt position and therefore not eligible to receive cash overtime compensation in accordance with the Fair Labor Standards Act. However, per Judiciary Human Resources policy, this position may be eligible to earn compensatory leave.

Your salary requires you to complete a Financial Disclosure Statement with the Maryland State Ethics Commission within 30 days of employment and no later than April 30th of each subsequent calendar year. Our Financial Disclosure Coordinator, Connie Winkel (AOC, Human Resources), will contact you with detailed instructions.

We look forward to having you as part of the Maryland Judiciary. If you have any questions relative to your employment with the Maryland Judiciary, please contact my office at 410-260-1280.

Sincerely,

John Doe
Office of Classification, Salary and Recruitment

cc: Suzie Smith, Hiring Manager

1.3 New Employee Orientation

In an effort to provide all new employees an effective introduction to the Maryland Judiciary, the Judiciary Human Resources Department collaborated with other administrative departments to develop the New Employee Orientation, a one day face-to-face training class held at the Maryland Judicial College Education and Conference Center in Annapolis. The class provides new employees with an overview of the Maryland Judiciary and includes topics such as: an overview of the District Court by the Chief Judge of the District Court; an overview of the Circuit Courts by an elected Clerk of Court; an overview of court administration by a Circuit Court Administrator; an overview of Human Resources policies by the Human Resources Department; time keeping and leave accounting instructions by the Payroll and Leave Accounting Office; an overview of employment law by the Judiciary Fair Practices Department; a presentation on professionalism by the Office of Professional Development; and, a presentation on supplemental retirement plans by a representative from Nationwide. Upon completion of the class, the goal is that all attendees will have acquired valuable employment-related information, as well as a better understanding of the structure and operations of the Maryland Judiciary.

1.4 Judiciary Hours of Operation

Pursuant to the *Administrative Order on Hours of Operation* (<http://mdcourts.gov/adminorders/20161216hoursofoperation.pdf>), all courthouses and other Judicial Branch offices shall be open for operation between 8:00 a.m. and 5:00 p.m. The courts and other Judicial Branch offices shall be open to assist the public between 8:30 a.m. and 4:30 p.m.

It is essential that all courts and other Judicial Branch offices have adequate coverage to address the needs of those who enter our facilities and to ensure efficient operations.

1.5 Changes to Policies and Procedures

The policies in this handbook contain an effective date. Whenever there is a change, the revised date will be indicated in the footer. You will be able to easily access the handbook through a link in the App Launcher on your desktop. The policies and procedures will be updated as changes are made.

Maryland Judicial Branch

POLICY ON ACCOMMODATION OF DISABILITIES

(a) Purpose and Scope

(1) Purpose

- (A) The Judicial Branch is committed to providing reasonable accommodations to its employees and applicants for employment to ensure that individuals with disabilities enjoy equal access to employment opportunities.
- (B) This policy sets forth the process for making and resolving a request for accommodation for employees and applicants for employment.
- (C) Retaliation against an applicant or employee because he or she has requested accommodation of a disability or participated in the processing of a disability accommodation request or complaint is prohibited.

(2) Scope

- (A) This policy applies to:
 - (i) applicants for employment; and
 - (ii) all persons employed by a court, unit, or judicial entity organized within the Judicial Branch
 - (I) including regular, temporary and contractual employees;
 - (II) regardless of the source of the employee's compensation (*e.g.*, county, state, federal, grant).
- (B) This policy does not apply to:
 - (i) the employees of the Register of Wills or the Orphans' Court; and
 - (ii) judges, except to the extent that certain judges serve as the administrative head of a judicial entity and, therefore, perform administrative duties consistent with this policy.

(b) Definitions

- (1) **ADA** – Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act (ADAAA) of 2008.
- (2) **ADA Coordinator** – For purposes of this policy, an employee responsible for receiving and facilitating a request for a disability accommodation by an employee or applicant.
- (3) **ADA Officer** – The employee responsible for coordinating the efforts of the Judicial Branch concerning compliance with the ADA and providing technical assistance to administrative heads and ADA coordinators.

(4) Administrative Head:

- (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge of the Appellate Court where the employee works for all other Appellate Court employees;
- (B) The Clerk of the Circuit Court for all employees under the Clerk's supervision;
- (C) The County Administrative Judge for all employees under the supervision of the Administrative Judge;
- (D) For the District Court, the Chief Judge of the District Court, the Chief Clerk, the Administrative Clerk, or Administrative Commissioner for all employees under his or her supervision;
- (E) For the Administrative Office of the Courts, the State Court Administrator;
- (F) For units organized within the Judicial Branch, the head of the unit where the employee works; and,
- (G) Any person who, by express written designation, serves as the authorized designee of an administrative head.

(5) Direct Threat – A significant risk to the health, safety, or wellbeing of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.

(6) Disability – A physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.

(7) Essential Functions – The job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified. Factors to consider in determining whether a function is essential include:

- (A) Whether the reason the position exists is to perform that function;
- (B) The number of other employees available to perform the function or among whom the performance of the function can be distributed; and
- (C) The degree of expertise or skill required to perform the function.

(8) Fair Practices Officer (FPO) – An employee in the Fair Practices Department of the Administrative Office of the Courts responsible for ensuring compliance with federal and state equal opportunity laws and overseeing the investigation of complaints of discrimination, harassment, and retaliation brought under this policy and under state and federal law. For all employees, other than employees of a Circuit Court subject to the supervision of a County Administrative Judge, the FPO is designated to receive and investigate complaints of discrimination, harassment, and retaliation.

(9) Judicial Entity – The Court of Appeals; the Court of Special Appeals; a Circuit Court or any department thereof; the District Court or any department thereof; the Administrative Office of the Courts or any department thereof; a unit of the Judiciary.

(10) Judiciary Human Resources Department (JHRD) – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (11) Major Life Activities** – Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- (12) Qualified Individual** – An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
- (13) Reasonable Accommodation** – A modification or adjustment to a position, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to perform the essential functions of the position. Reasonable accommodations may include, but are not limited to: making existing facilities readily accessible to and usable by persons with disabilities; job restructuring; modifying work schedules; reassignment to a vacant position; or acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies.
- (14) Substantially Limiting** – An impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. The determination of whether an impairment substantially limits a major life activity depends on the nature and severity of the impairment, the duration or expected duration of the impairment, and the permanent or long-term impact of the impairment.

Note: Under the ADAAA regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder, and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under the ADAAA regulations.

- (15) Undue Hardship** – An accommodation or action requiring significant difficulty or expense when considered in light of factors such as the size, financial resources, and the nature and structure of the employer's operation. Undue hardship also refers to an accommodation that is unduly expensive, substantial, or disruptive, or one that would fundamentally alter the nature of the position.
- (16) Unit** – The Attorney Grievance Commission, the Client Protection Fund, the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statements

(1) Reasonable Accommodations

- (A) The Judicial Branch is committed to ensuring equal opportunity in employment for its employees with disabilities.

- (B) It is the policy of the Judicial Branch to provide reasonable accommodations:
 - (i) when an applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
 - (ii) when an employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace; and
 - (iii) when an employee with a disability needs an accommodation to enjoy equal access to the benefits and privileges of employment.
- (C) It is the policy of the Judicial Branch to provide such reasonable accommodations unless doing so causes a direct threat to the individual or others in the workplace and the threat cannot be eliminated by reasonable accommodation or the accommodation imposes an undue hardship on the operation of the employing court, unit, or judicial entity's business or would change the essential functions of the position.

(2) Disabilities Related to Pregnancy

- (A) It is the policy of the Judicial Branch to provide reasonable accommodations for disabilities caused by or attributed to pregnancy.
- (B) Requests for accommodations for such disabilities should be submitted and handled using the request procedures set forth in this policy.

(3) Genetic Information

- (A) The Genetic Information Nondiscrimination Act prohibits employers from requesting or requiring genetic information of an individual or a family member of the individual, except as specifically allowed by law.
- (B) "Genetic information" includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information concerning a fetus carried by an individual, or an individual's family member, or an embryo lawfully held by an individual or family member receiving assistive reproductive services.
- (C) Employees are requested to refrain from providing genetic information when responding to a request for medical information under this policy.

(4) Confidentiality

- (A) It is the policy of the Judicial Branch to treat a request for a reasonable accommodation as confidential to the maximum extent allowed by law.
- (B) Documentation of a request for an accommodation and any medical information submitted in support of the request, including information regarding a medical condition or history, shall be treated as a confidential medical record and be maintained apart from the employee's personnel file.

(d) General Management Responsibilities

(1) Each administrative head shall:

- (A) Ensure that each supervisor, manager, and director who reports to the administrative head is familiar with the Judicial Branch policy providing for the reasonable accommodation of persons with disabilities in the workplace, specifically that
 - (i) The Judicial Branch provides reasonable accommodations:
 - (I) when an applicant with a disability needs an accommodation to have an equal opportunity to compete for a job;
 - (II) when an employee with a disability needs an accommodation to perform the essential functions of the job or to gain access to the workplace; and
 - (III) when an employee with a disability needs an accommodation to enjoy equal access to the benefits and privileges of employment; and
 - (ii) A substantiated complaint of discrimination or retaliation based on disability shall result in remedial or disciplinary action, or both, up to and including termination of employment; and
- (B) Designate a person to serve as the ADA coordinator for the court, unit, or judicial entity under the administrative head's supervision and communicate that designation in writing to the employees under his or her supervision and to the Judicial Branch FPO and ADA officer.

(e) Requests for Accommodations

(1) Applicant Process

- (A) Applicant Responsibilities
 - (i) An applicant, or a representative acting on behalf of an applicant, may request an accommodation pertaining to the interview process either orally or in writing.
 - (ii) An applicant may request an accommodation through any of the following: the JHRD recruiter, the administrative head, or the ADA coordinator.
 - (iii) Applicants are encouraged to use the ADA Request for Accommodation form available at http://mdcourts.gov/hr/forms_brochures/adarequest.pdf.
- (B) Management Responsibilities
 - (i) If the applicant does not submit an accommodation request form, the JHRD recruiter, the administrative head, or the ADA coordinator shall complete a request form on behalf of the applicant upon being made aware of an oral request.
 - (ii) The JHRD recruiter, the administrative head, or ADA coordinator shall immediately send a copy of the request to:
 - (I) the administrative head;
 - (II) the ADA coordinator (if he or she is not the administrative head); and
 - (III) the ADA officer (but not for positions under the supervision of a County Administrative Judge).
 - (iii) The administrative head, after consulting with the ADA coordinator, or the ADA officer, may authorize an accommodation for an applicant that he or she determines to be reasonable.

(2) Employee

- (A) An employee may request an accommodation, either orally or in writing, by directing the request to the employee's supervisor, manager, or ADA coordinator.
- (B) Employees with access to CONNECT are directed to submit a request for accommodation through CONNECT. Instructions for completing and submitting a request in CONNECT are available at <http://mdcourts.gov/hr/pdfs/ada/employeesaccommodationrequest.pdf>.
- (C) Circuit Court employees and other employees without access to CONNECT are encouraged to use the ADA Accommodation Request form available at http://mdcourts.gov/hr/forms_brochures/adarequest.pdf.

(f) Responding to a Request for Accommodation

- (1)** Under this policy, the Judicial Branch ADA officer provides technical assistance and guidance to the administrative head of a Circuit Court and his or her designated ADA coordinator upon request. The requirement that an administrative head consult with the ADA officer, report requests, and submit documentation to the ADA officer does not apply to requests for accommodation made by employees of the Circuit Court under the supervision of the County Administrative Judge.

(2) Receipt of Request Orally or in Writing

- (A) If no accommodation request form has been completed, the supervisor, manager, or ADA coordinator will direct the employee to complete the ADA Request for Accommodation form.
- (B) If the employee has made an oral request, the supervisor, manager or ADA coordinator shall memorialize the oral request of the employee.
- (C) The supervisor, manager or ADA coordinator shall immediately send a copy of the request to:
 - (i) the administrative head;
 - (ii) the ADA coordinator (if he or she is not the administrative head); and
 - (iii) the ADA officer.

- (3)** If the administrative head, after consulting with the ADA coordinator, the ADA officer, and the supervisor, determines that further dialogue is unnecessary to identify an effective reasonable accommodation and to determine that an accommodation is warranted, the administrative head may authorize an accommodation that he or she determines to be reasonable and effective.

(4) Interactive Process

- (A) If the request is not granted pursuant to subsection (3) above, the ADA coordinator, ADA officer, or designee should meet with the employee as soon as possible to facilitate the interactive process between the employee and the employer.

- (B) During the interactive process, the employee should communicate how the disability affects his/her ability to perform the essential functions of the job and identify what workplace accommodations are necessary to assist the employee in performing the assigned job duties.
- (C) The ADA coordinator, ADA officer, or designee should discuss the essential functions of the position with the employee and the precise job-related limitations and offer suggestions for possible reasonable and effective accommodations.
- (D) The ADA coordinator, ADA officer, or designee may direct the employee to submit medical documentation establishing the employee's disability, the need for an accommodation, and any functional limitations as specified in the Medical Inquiry and Release of Information form available at http://mdcourts.gov/hr/forms_brochures/adamedicalinquiryform.pdf.
- (E) The employee's supervisor should provide the ADA coordinator, the ADA officer, or designee with information regarding the essential functions of the position and the impact the requested accommodation will have on the operations of the department, unit, or office. The supervisor should also provide input to the ADA coordinator, ADA officer, or designee concerning the effectiveness of each potential accommodation in enabling the employee to perform the essential functions of the position.

(5) Granting or Denying the Accommodation Request

- (A) Upon completion of the interactive process, the ADA coordinator, ADA officer, or designee is responsible for assessing whether the employee's requested workplace accommodation is reasonable and determining what, if any, accommodation is most appropriate for both the employee and the employer.
- (B) The ADA coordinator, ADA officer, or designee shall recommend an appropriate action to the administrative head.
- (C) The administrative head may adopt or reject the recommendation of the ADA coordinator, ADA officer, or designee.
- (D) Consideration may be given to the employee's preference; however, the administrative head may select and implement the reasonably effective accommodation that is most cost-effective and easiest to provide.
- (E) The administrative head, ADA coordinator, or ADA officer will provide a formal response to a request for accommodation within 30 calendar days of receipt of the request, and will notify the employee if a longer period is needed.
- (F) The ADA coordinator or ADA officer shall document the decision to grant or deny the accommodation request on the Disability Accommodation Request Resolution form available on the website http://mdcourts.gov/hr/forms_brochures/adarequest.pdf.

- (G) The formal response granting or denying a request will also be documented in CONNECT for those employees serviced by CONNECT.
- (H) Copies of all paperwork will be forwarded to the ADA officer or ADA coordinator for central record keeping.

(g) Further Review or Action

(1) Informal Review of Accommodation Requests

- (A) An applicant or an employee who is dissatisfied with the resolution of his or her request for accommodation may seek informal reconsideration or review by filing an ADA Accommodation Complaint Form as follows:
 - (i) Employees of the Circuit Courts (under the supervision of the County Administrative Judge) may seek informal reconsideration or review by filing a complaint with the Circuit Court's EEO coordinator, ADA coordinator, or administrative head.
 - (ii) Employees of the Clerks' offices, courts, units, and judicial entities other than the Circuit Courts may seek informal reconsideration or review by:
 - (I) Filing a complaint with the ADA Officer:
Judiciary Human Resources Department
Attention: ADA Officer
580 Taylor Avenue, A-1
Annapolis, Maryland 21401, or
 - (II) Sending a complaint form electronically to aoc.grievances@mdcourts.gov. Telephone inquiries may be directed to (410) 260-3678.
- (B) ADA Accommodation Complaint forms are available at <http://mdcourts.gov/hr/adaforms/jhrd211grievanceform.pdf>.

(2) Complaints Regarding Disability Discrimination or Retaliation.

- (A) An employee or applicant who believes that he or she has been discriminated against based on his or her disability, including the denial of an accommodation request, or retaliated against for exercising a right under a disability or civil rights statute may file a complaint under the Judicial Branch Policy Prohibiting Discrimination, Harassment, and Retaliation, Sections (e)(5) and (6).
- (B) An applicant or employee of a Circuit Court (under the supervision of the County Administrative Judge) may file a complaint with the supervisor, manager, EEO coordinator or administrative head (County Administrative Judge).
- (C) An applicant or employee of the Clerks' offices, courts, units, and judicial entities other than the Circuit Courts may file a complaint with:
 - (i) The supervisor, manager, or administrative head; or
 - (ii) The Fair Practices Officer
Fair Practices Department
Internal Affairs Division

580 Taylor Avenue, A-2
Annapolis, Maryland, 21401

(iii) Complaint forms may be submitted to the FPO by email to fairpractices@mdcourts.gov.

(D) Employees and applicants are encouraged to use the complaint form available on the Fair Practices Department webpage at <http://mdcourts.gov/fairpractices/forms/fpd305eeocomplaintform.pdf>.

(3) External Complaints: An employee may also file a charge with the Maryland Commission on Civil Rights, or the U.S. Equal Employment Opportunity Commission. Notice of this option does not constitute legal advice, nor does it represent all legal remedies or options available to an employee.

(h) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

(i) Interpretive Authority: The JHRD is responsible for interpretation of this policy.

(j) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

2.2 POLICY ON AT-WILL EMPLOYMENT

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to identify positions in the Maryland Judicial Branch of Government that are at-will and to clarify the employment relationship of at-will employees.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **At-Will Employee or Employment** – An employment relationship that can be terminated by the employer for any reason or no reason, with or without cause. The employee is free to end the employment relationship at any time.
- (3) **Flat Rate** – A fixed annual rate of pay assigned to a position.
- (4) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and

orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (5) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

The Maryland Judicial Branch of Government has positions that are at-will as identified in Section (d). Employees who occupy at-will positions are not subject to the Judiciary's Policy on Disciplinary Actions and the Policy on Grievances.

To protect the interests of all involved, the administrative head must consult with the JHRD before terminating the employment of an at-will employee. The termination will not be approved if the JHRD determines the termination is a violation of law or the at-will employee's constitutional rights.

An at-will employee may file a complaint of discrimination or harassment with the Fair Practices Department pursuant to the Maryland Judicial Branch Policy on Anti-Discrimination, Harassment, and Retaliation.

(d) At-Will State Positions Within the Maryland Judiciary

The following state positions, or employees within the Maryland Judiciary paid through the Central Payroll Bureau, are at-will. This list is not all inclusive, as other positions may be identified at any time as being at-will due to: changes in, or the interpretation of, statute, rule or policy; the creation of a position that is determined to be at-will; or for any other reason as determined by the Chief Judge of the Court of Appeals or the State Court Administrator. At-will employees belong to one or more of the categories listed below:

- (1)** Flat rate positions;
- (2)** Positions compensated on the Senior Management pay scale;
- (3)** Positions in former pay ranges T14, T15, T16, J15 and J16 (the JHRD can provide a list if needed);
- (4)** Division Chiefs and County Clerks of the District Court;
- (5)** Employees serving an initial probationary period;
- (6)** Contractual and temporary employees;
- (7)** Special Appointments, which include but may not be limited to the following:
 - (A) Chief Deputy Clerks of the Circuit Court;
 - (B) Clerk of the Court for the Court of Special Appeals;
 - (C) Clerk of the Court for the Court of Appeals;
 - (D) Magistrates;
 - (E) Deputy Administrative Clerks of the District Court;
 - (F) District Court Commissioners;
 - (G) Law Clerks;

- (H) Staff Attorneys; and,
- (I) Any other position for which the job announcement stated it would be a special appointment;
- (8)** Executive and Judicial Assistants of the appellate courts and the District Court;
- (9)** Executive Aides and Special Assistants to the State Court Administrator or Deputy State Court Administrator; and,
- (10)** Any position for which the job announcement stated the position is at-will.

(e) Resignation in Good Standing

An at-will employee who wishes to resign in good standing shall submit to the administrative head a written resignation at least two weeks prior to its effective date. In lieu of a written resignation, the at-will employee may submit an oral resignation to be acknowledged in writing by the administrative head. An at-will employee who does not resign in good standing will not be eligible for rehire with the Maryland Judicial Branch. The JHRD may waive the two-week notice requirement in extraordinary circumstances.

- (f) Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

- (g) Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.

(h) Official Notice

This policy shall serve as official notice to an employee that his or her position is at will, including for an employee in a position that formerly was not at-will but is now at-will pursuant to this policy.

- (i) Not a Contract:** This policy is not intended to, and does not, create contractual employer obligations with respect to any matter it covers. Nothing contained in this policy is intended to be a guarantee that employment or any other benefit will continue for any period of time. Furthermore, no representative of the Judiciary has the authority to provide such assurances, oral or written, to at-will employees.

DEPARTMENT OF HUMAN RESOURCES

2.3 POLICY ON CLASSIFICATION, COMPENSATION, REINSTATEMENT, REASSIGNMENT, AND TRANSFER

(a) Purpose and Scope

- (1) **Purpose.** To establish a uniform policy to promote fair and consistent application of classification, compensation, reinstatement, reassignment, and transfer practices.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Maryland State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) the employees of the Register of Wills or the Orphans' Court;
 - (iii) the employees of the Attorney Grievance Commission and the Client Protection Fund; and
 - (iv) judges.

(b) Definitions

- (1) **Acting Capacity** – Temporary compensation provided to an employee who has assumed, for at least 10 days, greater responsibilities resulting from the temporary absence of another employee, the existence of a vacant critical position, or for the temporary need for additional staff to perform higher level duties. The employee continues to hold the position he or she held when the acting capacity began. The acting capacity shall not exceed six months without the written approval of the Director of the JHRD.
- (2) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (3) **Classification** – Classification involves grouping jobs into a predetermined number of pay ranges.

- (4) **Commute Time** – The time it normally takes for an employee to travel from his or her residence to his or her office.
- (5) **Contractual Employee** – Any person whose condition of employment and compensation are specified in a personal services contract.
- (6) **Demotion** – A change from one job classification to another job classification with a lower pay range.
- (7) **Flat Rate** – A fixed annual rate of pay assigned to a particular position.
- (8) **Full-Time Contractual Employee** – A contractual employee who is scheduled and works an average of 85% or more of a forty-hour week, per calendar year.
- (9) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (10) **Office** – The normal place of business for an employee.
- (11) **Overtime**
- (A) Non-Exempt Employee. Hours worked in excess of an employee’s work day, as preapproved by the administrative head, and compensated with cash (unless determined otherwise by the Chief Judge of the Court of Appeals, the Chief Judge of the District Court, or the State Court Administrator) at the rate of time and one-half.
 - (B) Exempt Employee. Overtime does not begin to accrue until the employee has worked thirty minutes beyond the employee’s normal work day. Total compensatory leave earned includes the first hour worked plus any time worked after the first hour. Overtime for an exempt employee will be compensated with compensatory leave at the straight time rate.
- (12) **Pay Range** – A range of pay assigned to a particular position. The range will have a minimum and maximum amount of pay allowed for the position. An employee may be compensated anywhere within the pay range assigned to his or her position.
- (13) **Position Identification Number (PIN)** – A unique number that identifies a position.
- (14) **Promotion** – An action by which an employee moves from one position to another position that has a higher pay range.
- (15) **Reassignment** – The movement of an employee within or outside the employee’s current office or unit within the Judiciary, which may or may not result in a change to the employee’s pay range and/or PIN. Any reassignment is conditional upon the employee meeting the minimum qualifications for the new position.

- (16) Reclassification** – A change of a position from one job classification to another job classification that more appropriately reflects the duties and responsibilities of the position. The reclassification may be to a higher, lower, or the same pay range as the former position.
- (17) Regular Budgeted Position** – A state Judicial Branch budgeted position having an assigned (PIN), not including contractual and temporary positions, a Register of Wills, and employees of a Register of Wills office.
- (18) Regular Employee** (for the purpose of this policy only) – Any person holding a regular budgeted position paid through the Central Payroll Bureau of the Comptroller, not including elected officials, employees of a Register of Wills office, contractual and temporary positions, and those held by judges, magistrates, and law clerks.
- (19) Reinstatement** – Through a competitive process, the re-employment within three years of a regular employee who successfully completed initial probation, if one is required, and who separated in good standing from the Maryland Judiciary or other unit of Maryland State government. Additionally, reinstatement of a former employee returning to state employment from active military service must be in accordance with all applicable federal and state laws pertaining to the re-employment of veterans.
- (20) Temporary Employee** – A person whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment shall not exceed one year from the date of hire.
- (21) Transfer, Internal** – The movement of an employee outside the employee’s current office or unit within the Judiciary, in which the employee’s pay range does not change, but the employee’s PIN does change. A transfer may include a change in the work hours, work shift, work location, work assignment, and/or work supervisor of an employee. Such a transfer may include a selection process. Any transfer is conditional upon the employee meeting the minimum qualifications for the new position.
- (22) Transfer, Intra-agency** – An employee of another unit of Maryland State government may transfer into a position with the Judiciary only following a competitive selection process. Such a transfer may result in a change in the employee’s pay, depending on the pay range assigned to the position to which the employee transfers.
- (23) Unit** – The State Board of Law Examiners, the Maryland State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Judiciary Compensation Practices

- (1) **Pay Ranges.** Each classification is assigned a pay range that includes the minimum and maximum salary amounts for that range.
- (2) **Flat Pay Rate.** There are some positions within the Judiciary that do not have a pay range and are compensated at a flat rate of pay.
- (3) **Hourly Rates of Pay.** Contractual and temporary positions within the Judiciary receive an hourly Rate of Pay.
- (4) **Entry Rate of Pay.** The entry rate of pay for a new employee will be the market minimum salary for the classification in which the employee is hired, as set by the JHRD. There may be very limited flexibility for a higher entry salary based on recruitment difficulty and qualifications as determined by the JHRD.
- (5) **Reinstatement**
 - (A) When an employee is reinstated, the employee's pay shall be determined as follows:
 - (i) The pay range will be the pay range currently assigned to the classification in which the employee is hired;
 - (ii) A former employee of another unit of state government who is reinstated will be placed at the market minimum salary for the position into which the employee is hired. There may be very limited flexibility for a higher salary based on recruitment difficulty and qualifications as determined by the JHRD;
 - (iii) A former state Judiciary employee reinstated into the same classification held at the time of separation from the Judiciary will receive the same salary earned at the time of separation, or the market minimum for the classification, whichever is greater;
 - (iv) A former state Judiciary employee reinstated into a lower classification than that held at the time of separation from the Judiciary will receive a salary that is 6% less than the employee's salary at the time of separation or the market minimum, whichever is greater. If the 6% decrease is higher than the maximum for the pay range for that classification, then the employee will be placed at the maximum of the pay range;
 - (v) A former state Judiciary employee reinstated into a higher classification than the classification held at the time of separation from the Judiciary will receive a salary that is 6% greater than the employee's salary at the time of separation or the market minimum, whichever is greater. If the 6% increase is higher than the maximum for the pay range for that classification, then the employee will be placed at the maximum of the pay range;
 - (vi) The decision of the JHRD is final.
 - (B) The reinstatement of employees returning from active military service is covered by specific federal and state laws. Please consult with the JHRD when reinstating someone returning from active military service.

- (6) **Part-Time Employment.** Compensation for part-time employment shall be prorated in proportion to the number of hours employed.
- (7) **Merit Increase** (previously known as a salary increment). This Section applies only to regular employees who have successfully completed an initial probationary period, if one is required, and is dependent upon funding and approval of the Chief Judge of the Court of Appeals or the State Court Administrator.
- (A) In a year in which a merit increase is approved, the increase will be effective on a date and of an amount determined by the Chief Judge of the Court of Appeals, or the State Court Administrator.
- (B) An employee must receive an overall rating of “meets standards” or better on the most recent annual performance evaluation to be eligible to receive a merit increase.
- (8) **Contract Renewals.** Prior to the contract renewal period, the administrative head may discuss with the JHRD any changes to the contract, including compensation.
- (9) **Reassignment**
- (A) The administrative head of an employee’s office or unit, in consultation with the JHRD, may direct the reassignment of the employee within that office or unit, either at the employee’s request or on the administrative head’s own initiative.
- (B) The administrative head of the employee’s office or unit, in consultation and cooperation with the administrative head of another office or unit, and in consultation with the JHRD, may direct the reassignment of an employee into the other office or unit, either at the employee’s request or with the employee’s consent.
- (C) The State Court Administrator, in consultation with the respective administrative head(s) and the JHRD, may direct the reassignment of an employee, either within or outside the employee’s own office or unit, in circumstances in which the State Court Administrator believes such reassignment is in the best interest of the Judiciary. This action does not require the employee’s request or consent. The State Court Administrator shall issue such a directive, in writing, to the employee’s current administrative head, and, if applicable, to the administrative head for the position to which the employee is being reassigned.
- (D) The employee’s salary is not affected by reassignment and the employee retains his/her existing PIN.
- (E) Notwithstanding the above, an employee may request a reassignment to another position with a lower pay range and a different PIN. If the reassignment is approved, the employee’s pay shall be within the pay range for the position to which the employee is reassigned, as determined by the JHRD. The decision of the JHRD is final.
- (F) The reassignment of an employee within the Judiciary, in accordance with this policy, whether initiated by the administrative head, the State Court Administrator, or the employee, is not subject to a grievance action.

(10) Internal Transfer

- (A) The administrative head of the employee's office or unit, in consultation and cooperation with the administrative head of another office or unit, and in consultation with the JHRD, may direct the transfer of an employee into the other office or unit, either at the employee's request or with the employee's consent.
- (B) The State Court Administrator, in consultation with the respective administrative head(s) and the JHRD, may direct the transfer of an employee, either within or outside the employee's own office or unit, in circumstances in which the State Court Administrator believes such transfer is in the best interest of the Judiciary. This action does not require the employee's request or consent. The State Court Administrator shall issue such a directive, in writing, to the employee's current administrative head, and, if applicable, to the administrative head for the position to which the employee is being transferred.
- (C) The employee's salary is not affected by transfer and the employee retains his/her existing PIN.
- (D) Notwithstanding the above, an employee may request a transfer to another position which may or may not have a different pay range and a different PIN. If the Transfer is approved, the employee's pay shall be within the pay range for the position to which the employee is transferred, as determined by the JHRD. The decision of the JHRD is final.
- (E) The internal transfer of an employee within the Judiciary, in accordance with this policy, whether initiated by the administrative head, the State Court Administrator, or the employee, is not subject to a grievance action.

(11) Intra-Agency Transfer

- (A) Through a competitive selection process, an employee of another unit of state government may transfer into a position with the Judiciary.
- (B) The salary will be the market minimum salary for the classification in which the employee is hired. There may be very limited flexibility for a higher salary based on recruitment difficulty and qualifications as determined by the JHRD. If the employee is a former Judiciary employee, then the salary rules in (c)(5) will apply.

(12) Reclassification

- (A) An employee may submit a request for reclassification to the administrative head. The administrative head also may initiate a request for reclassification. The administrative head may forward the request to the JHRD for review with required documents, including the class specifications and position description, denoting the change in duties and responsibilities that support a change in the current job classification to another job classification.
- (B) Reclassification Authorities
 - (i) All reclassification requests must be submitted, reviewed, and approved by the JHRD.

- (ii) All reclassification requests for AOC employees must be approved by the State Court Administrator.
- (iii) The submittal of a reclassification request involving a Senior Management position must be approved by the State Court Administrator, prior to submitting the request to the JHRD.
- (iv) The effective date of a reclassification action should coincide with the beginning of a pay period.

(C) **Review of Classification Decisions.** The administrative head may request that the classification determination be reconsidered to account for any new or additional information. The decision of the JHRD is final.

(D) The pay for an employee whose position is reclassified shall be within the pay range assigned to the new Classification. The determination of the new salary will be the same as in subsection (13) below. The decision of the JHRD is final and not subject to a grievance action.

(13) Promotion. The pay for an employee who is promoted shall be within the pay range assigned to the classification to which the employee was promoted through a competitive process, as follows:

- (A) Employees with less than 8 continuous years of state Judiciary service will receive a 6% increase or the market minimum for the new position, whichever is greater;
- (B) Employees with 8 or more continuous years of state Judiciary service will receive a 6% increase or the market mid-point for the new position, whichever is greater. If the mid-point is less than a 6% increase, then the employee will receive the 6% increase rather than the mid-point.
- (C) If the 6% increase is higher than the maximum for the pay range for that classification, then the employee will be placed at the maximum of the pay range
- (D) The decision of the JHRD is final and not subject to a grievance action.

(14) Acting Capacity

- (A) All acting capacity requests must be reviewed and pre-approved by the JHRD. Approval of a request is at the discretion of the JHRD. Requests should be accompanied by a completed acting capacity form, an employment application, and a current organizational chart.
- (B) The designated employee for an acting capacity must: meet the minimum qualifications for the acting classification; have completed the initial probationary period if one is required; not have received a disciplinary action in the last 12 months; and, be able to perform every essential function of the position.
- (C) Acting capacity may be granted when a function is being performed due to the continuous temporary absence of another employee, when there is a vacant position, or when there is a temporary assignment of higher level duties assigned to a position. There is a 10-work day waiting period before acting capacity payment begins. Acting capacity requests may be approved

for up to six months. Extensions of acting capacity requests must be approved by the Director of the JHRD or designee.

- (D) When a regular employee is assigned duties in an acting capacity, the affected employee's pay will be temporarily adjusted to the equivalent of what the pay would be if the employee was promoted to the indicated classification.
- (E) If an employee in acting capacity goes out on FMLA, or is otherwise unable to perform the duties of the position, the acting capacity assignment and acting pay will terminate.
- (F) Acting capacity pay is initiated by management and is at the approval of the JHRD. A denial of acting capacity is not subject to a grievance action.

(15) Demotion

- (A) Adjusted Salary – The pay for an employee who has been demoted shall be within the pay range for the position to which the employee is demoted.
 - (i) The employee will realize 6% reduction in salary;
 - (ii) If the 6% reduction leaves the employee below the market minimum salary for the classification, then the employee will be placed at the market minimum;
 - (iii) If the 6% reduction leaves the employee's salary above the maximum salary for the classification to which he or she is demoted, then the reduction will be to the maximum salary for that classification, which could result in a salary reduction greater than 6%;
 - (iv) The decision of the JHRD is final.
- (B) Demotion for Disciplinary Reasons – An administrative head may demote an employee for disciplinary reasons due to performance or conduct issues. The demotion must be in accordance with the Judiciary's Policy on Disciplinary Actions.
- (C) Demotion to Facilitate an Organizational Change – An administrative head may demote an employee in order to facilitate an organizational change. A demotion for this reason is not subject to a grievance action.

(16) Pay Adjustments Resulting from Special Studies. Pay adjustments may be granted as a result of occupational or group studies conducted by the JHRD or an external consultant, with the authorization of the Chief Judge of the Court of Appeals or designee.

(17) Overtime Compensation

- (A) Non-exempt employees (cash overtime eligible) are paid:
 - (i) Cash at the rate of time and one-half for overtime hours worked; or,
 - (ii) Compensatory leave at the rate of time and one-half for overtime hours worked pursuant to the Policy on Leave.
- (B) Exempt regular employees earn compensatory leave at the straight time rate when working approved overtime pursuant to the Policy on Leave.

- (C) Contractual and temporary exempt employees will receive cash at the rate of time and one-half when working approved overtime.
- (D) When an employee is required to work beyond the employee's normal workday when traveling directly to and from the employee's residence and a work location other than the employee's office, the employee's commute time will not be counted when calculating the amount of overtime hours earned for that day.
- (E) When an employee takes leave for any part of the day, no overtime accrues unless and until the hours worked beyond the employee's normal workday exceed the leave hours taken.

(18) Shift Differential Compensation

- (A) An employee who is in a position eligible for shift differential will receive an hourly premium of \$2.50 for each hour worked after 5:00 p.m. and before 7:00 a.m.
- (B) Eligible positions include: District Court Commissioners; Special Police Officers; Bailiffs; certain JIS positions providing 24/7 coverage; and certain couriers who are required to report to work during the premium eligible hours.
- (C) Employees will not be paid shift differential when on paid leave.
- (D) CONNECT will automatically calculate the shift differential for employees in shift eligible positions. Such employees will not have to select shift pay when completing their time sheets.

(19) Documentation. The JHRD will retain documentation of all salary transactions according to the Maryland Judiciary Records Retention Schedule.

(d) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

(e) Designee: The State Court Administrator or the Director of the JHRD may designate any Judiciary employee to serve or act on his or her behalf in matters pertaining to this policy.

(f) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(g) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

Maryland Judicial Branch

POLICY ON EMPLOYMENT OF RELATIVES

(a) Purpose and Scope

(1) Purpose

- (A) This policy is established to preserve, protect, and promote the impartiality of the Judicial Branch and to emphasize the importance of merit in the hiring, promotion, and retention of employees within the Judicial Branch.
- (B) A prohibited employment relationship that existed before the effective date of this policy will be permitted to continue subject to satisfactory job performance. Any promotion, reassignment, transfer, or disciplinary action occurring after the effective date of this policy shall be subject to the terms of this policy.

(2) Scope

- (A) This policy applies to:
 - (i) applicants for employment;
 - (ii) all persons employed by a court, unit, or judicial entity organized within the Judicial Branch
 - (I) including regular, temporary, and contractual employees;
 - (II) regardless of the source of the employee's compensation (e.g., county, state, federal, grant); and
- (B) This policy does not apply to:
 - (i) the employees of the Register of Wills or the Orphans' Court, and
 - (ii) law clerks, unpaid interns, or volunteer employees unless they are in an immediate supervisor-subordinate relationship with a relative; and
 - (iii) all judges.

(b) Definitions

(1) Administrative Head:

- (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the Appellate Court where the employee works;
- (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all employees under his or her supervision, in the Circuit Court where the employee works;
- (C) For the District Court, the Chief Judge of the District Court; or, the Administrative Judge, Chief Clerk, the Administrative Clerk, or Administrative Commissioner for employees who report to either of those administrative heads;
- (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
- (E) For units, the head of the unit where the employee works; or
- (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.

- (2) **Judicial Entity** – The Court of Appeals; the Court of Special Appeals; a Circuit Court or any department thereof; the District Court or any department thereof; the Administrative Office of the Courts or any department thereof; a unit of the Judiciary.
- (3) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (4) **Relative** – For purposes of this policy, “relative” means:
- (A) Spouse of an employee;
 - (B) Child of an employee or employee’s spouse, including a stepchild and current foster child;
 - (C) Parent or guardian of an employee or employee’s spouse, including a stepparent or other individual who serves in loco parentis;
 - (D) Grandparent of an employee or employee’s spouse, including a step-grandparent;
 - (E) Sibling of employee or employee’s spouse, including a step-sibling and half-sibling;
 - (F) Aunt or uncle of an employee or employee’s spouse;
 - (G) Nephew or niece an employee or employee’s spouse;
 - (H) First cousin of an employee or employee’s spouse;
 - (I) Son-in-law or daughter-in-law of an employee or employee’s spouse; and
 - (J) Brother-in-law or sister-in-law of an employee or employee’s spouse.
- (5) **Supervisor-Subordinate Relationship** – A relationship where an employee is within the chain-of-command of a relative.
- (6) **Unit** – The Attorney Grievance Commission, the Client Protection Fund, the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

It is the policy of the Judicial Branch that the recruitment, selection, promotion, reassignment, and transfer of employees be based on their demonstrated ability, knowledge, and skills and that demotion or other appropriate disciplinary action not be avoided or otherwise influenced by familial relationships.

If a relative meets the established requirements for a job vacancy based on the relative’s qualifications and performance, the relative is eligible for employment with the Judiciary with the limitations set forth in this policy.

(d) Limitations on Familial Work Relationships

- (1) Relatives who meet established requirements for job vacancies based on their qualifications and performance are not ineligible for employment with the Judicial Branch, except that:
- (A) Relatives shall not be employed such that a supervisor-subordinate relationship occurs upon or after the time of employment;

- (B) A relative may not advocate on behalf of a relative or advance any position with respect to any condition of employment, promotion, reassignment, transfer, or demotion or other disciplinary action;
- (C) More than one relative may not work for the same supervisor, except as provided in this policy; and
- (D) A relative of the following persons may not be eligible for employment in the Judicial Branch:
 - (i) The Chief Judges of the Court of Appeals and Court of Special Appeals;
 - (ii) The Chief Judge and the Chief Clerk of the District Court for employment within that Court;
 - (iii) The State Court Administrator;
 - (iv) The Deputy State Court Administrator; and
 - (v) A judge, for employment within the court in which the judge sits, including the clerk's office.

- (2) If employees who work in the same department within a judicial entity or unit become relatives during their employment, one of the employees must immediately leave employment with that department or unit.

(e) Applicant and Employee Responsibilities

- (1) Each applicant for employment by a court, unit, or judicial entity within the Judicial Branch shall disclose in writing the name of each relative employed within the Judicial Branch and where the relative is employed.
- (2) Each employee of a court, unit, or judicial entity within the Judicial Branch shall be required to disclose in writing any relationship violating this policy that occurs due to demotion, promotion, reassignment, or transfer of the employee, or an election.
- (3) The applicant or employee must disclose any relatives who are judges of any Maryland Court.
- (4) Failure of an applicant or employee to provide complete and accurate information may result in termination of employment within the Judicial Branch.

(f) Exceptions

- (1) If a supervisor-subordinate relationship is created by a gubernatorial appointment to the bench of a court, the prohibition against supervisor-subordinate relationships does not apply.
- (2) The Chief Judge of the Court of Appeals and the State Court Administrator may, at his or her sole discretion, make exceptions to any provision of this policy at any time.

(g) Authority: This policy is adopted by the authority of the Chief Judge of the Court of Appeals. The Director of the JHRD is responsible for the interpretation of this policy.

(h) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

2.5 POLICY ON OTHER EMPLOYMENT AND OUTSIDE ACTIVITY

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish a uniform practice for the reporting and approval of other employment or activities.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) the employees of the Register of Wills or the Orphans' Court;
 - (iii) the employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iv) judges; and
 - (v) Clerks of the Circuit Courts.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Employment** – Any activity that is separate from an employee's Maryland Judicial Branch of Government employment functions which generates financial compensation or reward of any kind, including, but not limited to, bonuses, commissions, fees, salary, tips, or wages.
- (3) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (4) Outside Activity** – Involvement by an employee in any private, civic, or religious organization, interest, hobby, or pursuit other than employment.
- (5) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

The Judiciary recognizes that employees sometimes seek additional employment or pursue activity outside their normally scheduled Judiciary workday to earn additional income or to develop new skills and experience. Despite any other employment or outside activity, a Maryland Judicial Branch of Government employee's Judiciary job should be his or her primary employment responsibility. The Judiciary does not consider other employment or outside activity to be an excuse for poor performance, tardiness, absenteeism, or refusal to work overtime or travel when required.

(d) General Provisions

- (1)** An employee is prohibited from engaging in any business, trade, occupation, profession, or activity (including, but not limited to, volunteer activity) that the Judiciary determines will:
 - (A) Bring the Judiciary into disrepute;
 - (B) Discredit the individual as an employee of the Judiciary;
 - (C) Interfere with the performance of the employee's Judiciary duties;
 - (D) Present a conflict of interest;
 - (E) Result in misuse of Judiciary property or funds;
 - (F) Result in use of the Judiciary position for personal gain; or
 - (G) Violate Judiciary policy or procedure.
- (2)** Other employment or outside activity is prohibited during any calendar day when the employee is on leave from his or her Judiciary job due to illness or injury.
- (3)** Employees may not use Judiciary time or property in the pursuit of private business or other employment or outside activity.
- (4)** Current employees must notify the administrative head in advance and in writing of any outside activity that may violate Section (d)(1) of this policy. An employee who is working another job at the time of hire by the Judiciary, and who intends to continue the other employment, must so advise the administrative head to ensure that all general provisions of this policy are met. The administrative head, in consultation with the JHRD, the individual responsible for Human Resources for locally-funded employees, or the State Ethics Commission if necessary, will determine whether the employee's other employment or outside activity meets all of the provisions of this policy.

- (5) If it is determined that the other employment or outside activity does not meet the provisions of this policy, the employee must discontinue within two weeks either his/her other employment or outside activity or his/her employment with the Judiciary.
- (e) **Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.
- (f) **Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.
- (g) **Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

Maryland Judicial Branch

POLICY PROHIBITING DISCRIMINATION, HARASSMENT, AND RETALIATION

(a) Purpose and Scope

- (1) Purpose.** This Policy is established to ensure compliance with applicable laws governing the Judiciary's equal opportunity responsibilities concerning employees and applicants for employment.
- (A) The Judicial Branch recognizes and honors the value and dignity of each employee and the importance of providing employees with an opportunity to pursue a career in an environment free of discrimination, harassment, and retaliation.
 - (B) This policy establishes the process for filing a complaint of discrimination, harassment, and retaliation and assigns responsibilities for reporting, investigating, and resolving such complaints.
 - (C) The Judicial Branch has zero tolerance for discrimination, harassment, and retaliation, and shall take prompt remedial action, including appropriate disciplinary or remedial action, up to and including termination, to correct, remedy, and prevent unlawful discrimination, harassment, and retaliation.

(2) Scope

- (A) Pursuant to Maryland Rule 16-806, this policy applies to:
 - (i) applicants for employment; and
 - (ii) all persons employed by a court, unit, or judicial entity organized within the Judicial Branch
 - (I) including regular, temporary, and contractual employees;
 - (II) regardless of the source of the employee's compensation (*e.g.*, county, state, federal, grant).
- (B) This policy does not apply to:
 - (i) the employees of the Register of Wills or the Orphans' Court; and
 - (ii) judges, except to the extent that certain judges serve as the administrative head of a court and, therefore, perform administrative duties consistent with this policy.
- (C) Employees may use this policy to report conduct that constitutes discrimination, harassment, or retaliation in the workplace by any person, including judges, supervisors, co-workers, vendors, attorneys, jurors, witnesses, and litigants. Although Judicial Branch officials have limited authority over persons who are not Judicial Branch employees, the Judicial Branch will take reasonable available steps to prevent harm to employees who encounter harassment, discrimination, and retaliation in the workplace by such persons.

(b) Definitions

- (1) Administrative Head:**
- (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge of the Appellate Court where the employee works for all other Appellate Court employees;
 - (B) The Clerk of the Circuit Court for all employees under the Clerk's supervision (Clerk's office employees);
 - (C) The County Administrative Judge for all employees under the supervision of the Administrative Judge;
 - (D) For the District Court, the Chief Judge of the District Court, the Chief Clerk, the Administrative Clerk, or Administrative Commissioner for all employees under his or her supervision;
 - (E) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (F) For units organized within the Judicial Branch, the head of the unit where the employee works; and,
 - (G) Any person who, by express written designation, serves as the authorized designee of an administrative head.
- (2) Complainant** – An employee, applicant, or other individual who files a complaint alleging a violation of this policy.
- (3) Disability** – A physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. Additional information on disabilities can be found in the Policy on Accommodation of Disabilities.
- (4) Discrimination** – A distinction in treatment because of an individual's race, color, national origin, religion, sex, age, physical or mental disability, sexual orientation, gender identity or expression, political affiliation, marital or family status, genetic information, or any other characteristic protected by state or federal law.
- (5) Equal Employment Opportunity (EEO) Coordinator** – An employee of a Circuit Court, subject to the supervision of the County Administrative Judge, designated to receive and, upon request, investigate complaints of discrimination, harassment, and retaliation and to provide support and technical assistance in resolving religious accommodation requests for employees of the Circuit Courts under the supervision of the County Administrative Judge.
- (6) Judicial Entity** – The Court of Appeals; the Court of Special Appeals; a Circuit Court or any department thereof; the District Court or any department thereof; the Administrative Office of the Courts or any department thereof; a unit of the Judiciary.
- (7) Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (8) Fair Practices Officer (FPO)** – An employee in the Fair Practices Department of the Administrative Office of the Courts responsible for ensuring compliance with federal and state equal opportunity laws, and overseeing the investigation of complaints of discrimination, harassment, and retaliation brought under this policy and under state and federal law. For all employees, other than employees of a Circuit Court subject to the supervision of a County Administrative Judge, the FPO is designated to receive and investigate complaints of discrimination, harassment, and retaliation.
- (9) Harassment** – Threatening, intimidating, or demeaning conduct directed toward an individual because of that individual’s protected class or characteristic, which is severe or pervasive enough to create an objectively hostile work environment.
- (10) Protected Class or Characteristic** – A trait or characteristic, such as race, color, national origin, religion, sex, age, physical or mental disability, sexual orientation, gender identity or expression, political affiliation, marital or family status, genetic information, or any other characteristic protected by applicable state or federal law.
- (11) Respondent** – An individual alleged to have violated this policy.
- (12) Retaliation** – Adverse action taken against an employee or applicant for employment because he or she opposed an unlawful employment practice, filed a complaint, participated in any way in an investigation of an alleged unlawful employment practice, requested an accommodation, or otherwise sought the protections or entitlements of any discrimination or harassment law.
- (13) Unit** – The Attorney Grievance Commission, the Client Protection Fund, the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Prohibited Conduct

- (1) Discrimination.** This policy prohibits discrimination in recruitment, hiring, promotion, training, compensation, benefits, transfer, discipline, discharge, and other terms and conditions of employment based on a person’s protected class or characteristic.
- (A) The Judicial Branch is committed to ensuring that employees and applicants are not subject to discrimination based on the individual’s:
- (i) Race;
 - (ii) Color;
 - (iii) National Origin;
 - (iv) Religion;
 - (v) Sex;
 - (vi) Age;
 - (vii) Physical or Mental Disability;
 - (viii) Sexual Orientation;
 - (ix) Gender Identity or Expression;
 - (x) Political Affiliation;
 - (xi) Marital or Family Status;
 - (xii) Genetic Information; or

(xiii) Any other characteristic protected by federal or state law.

(B) Examples of Prohibited Discrimination. Such conduct may include the following actions if taken because of an individual's protected class or characteristic:

- (i) Refusing to hire or promote an individual;
- (ii) Imposing an unjustified disciplinary action;
- (iii) Failing or refusing to grant a request for leave or other benefit without justification; or
- (iv) Otherwise treating an applicant or employee less favorably than those in a non-protected class or characteristic.

(2) Harassment

(A) Generally

- (i) This policy prohibits threatening, intimidating, or demeaning conduct directed toward an individual because of the individual's protected class or characteristic, as set forth in (c)(1)(A), that is sufficiently severe or pervasive to create an objectively hostile work environment.
- (ii) Harassment is a form of discrimination that undermines the integrity of the employment relationship and the dignity of the harassed employee.
- (iii) All forms of harassment are unacceptable, and harassment against any protected group will not be tolerated. Even if certain harassment does not violate the law, it may still violate this or other policies of the Judicial Branch and result in discipline.

(3) Sexual Harassment

(A) Sexual harassment is a form of harassment consisting of unwanted physical or verbal sexual advances, requests for sexual favors, or other sexually-oriented conduct when:

- (i) Submission to such conduct is made a term or condition of an individual's employment, either plainly or by inference; or
- (ii) Such conduct interferes unreasonably with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

(B) **Examples of Sexual Harassment.** Such conduct may include:

- (i) Unwelcome touching or near-touching, which can include patting, brushing against, hugging, cornering, invading personal space, or other unwanted physical conduct;
- (ii) Unwelcome ogling or leering;
- (iii) Sexual innuendo, teasing, and other sexually-oriented communication, such as jokes, personal inquiries, and sexist insults;
- (iv) Requests or demands for sexual favors. This includes subtle or blatant expectations, pressures, or requests for any type of sexual favor accompanied by an implied or stated promise of preferential treatment (often referred to as quid pro quo) or negative consequences concerning one's employment;
- (v) Displays of offensive, sexually explicit images, including calendars, posters, photographs, pictures, drawings or cartoons; or
- (vi) Participating in or supporting, either directly or indirectly, such harassment.

- (4) Examples of Other Forms of Harassment.** Such conduct may include:
- (A) Verbal abuse, offensive jokes, or remarks about or references to derogatory stereotypes that are related to an individual's protected class or characteristic;
 - (B) Transmitting emails, texts, or other communications containing jokes, epithets, slurs, comments that are derogatory or demeaning to an individual's protected class or characteristic, or which promote negative stereotypes. This includes the use of social media while on or off duty when the communication involves references to employees, contractors, or anyone involved in Judiciary programs, services, or operations;
 - (C) Display of offensive images that reflect negatively upon a protected class or characteristic, including calendars, posters, photographs, pictures, drawings or cartoons; or
 - (D) Participating in or supporting, either directly or indirectly, such harassment.
- (5) Retaliation**
- (A) This policy prohibits retaliation against an employee because the employee opposed any unlawful employment practice or action, filed a charge of discrimination, harassment, or retaliation, or participated in a discrimination, harassment, or retaliation investigation or proceeding, or otherwise sought the protections or entitlements of any discrimination or harassment law.
 - (B) Retaliation means a materially adverse action that would likely deter a reasonable person from pursuing a complaint of discrimination, harassment, or retaliation, or otherwise seeking the protections or entitlements of any discrimination or harassment law.
 - (C) Example of Retaliation. Such conduct may include:
 - (i) Unjustified discipline or a denial of promotion;
 - (ii) Threats, unjustified negative evaluations, or unjustified negative references; or
 - (iii) Unjustified changes in work assignment or location, or a denial of privileges.
- (6) Violation:** Any employee found to have engaged in discrimination, harassment, or retaliation in violation of this policy will be subject to disciplinary or remedial action, up to and including termination of employment.

(d) General Management Responsibilities

- (1)** Each administrative head shall ensure that each supervisor, manager, and director who reports to the administrative head is familiar with the Judicial Branch policy prohibiting discrimination, harassment, and retaliation, specifically that
 - (A) The Judicial Branch has a zero-tolerance policy for any form of discrimination, harassment, or retaliation; and
 - (B) A substantiated complaint of discrimination, harassment, or retaliation shall result in remedial or disciplinary action, or both, up to and including termination of employment; and
- (2)** Each County Administrative Judge shall designate a person to serve as the EEO coordinator for the employees under the Administrative Judge's supervision and communicate that designation in writing to those employees and to the Judiciary FPO.
- (3)** Any administrative head, EEO coordinator, supervisor, or manager who becomes aware of a complaint or a potential violation of this policy must immediately report the complaint or potential

violation to the administrative head, the EEO coordinator, and the FPO (for employees who are not under the supervision of a County Administrative Judge).

- (4) Management employees within the Judicial Branch will make every reasonable effort to handle the complaint in a manner that protects the confidentiality of all parties.

(e) Employee Responsibilities

(1) Adherence to Policy

- (A) All employees within the Judicial Branch shall comply with this policy, act in a responsible and professional manner, and refrain from discriminating, harassing, or retaliating against any person.
- (B) All employees within the Judicial Branch shall support, encourage, and promote a work environment free from discrimination, harassment, and retaliation.
- (C) Any employee engaging in conduct prohibited by this policy shall be subject to disciplinary action, or remedial action, up to and including termination of employment.

(2) Cooperation in an Investigation

- (A) All employees within the Judicial Branch shall cooperate fully with an investigation conducted under this policy or in response to any complaint or charge filed with a state or federal agency enforcing any equal employment opportunity law.
- (B) Employees shall provide complete and accurate information, requested documents, and any other information necessary to conduct a full investigation of the complaint.

(3) Responding to Harassment. If an employee believes that he or she is being subjected to harassment, the employee should:

- (A) Inform the offending person that his/her conduct is unwelcome and should cease immediately. It is important for the victim to communicate that the conduct is unwelcome, particularly when the alleged harasser may have some reason to believe that the behavior may be welcome. However, a victim of harassment need not confront his/her harasser directly, so long as the victim's *conduct* demonstrates that the harasser's behavior is unwelcome;
- (B) Document the date, time, location, and nature of the alleged harassing incident, and note any witnesses; and
- (C) If the alleged harassment does not cease, report the alleged harassing behavior promptly in accordance with this policy.

(4) Reporting Violations and Complaints for Employees of the Clerks' Offices, Courts, Units, and Entities Other than the Circuit Courts

(A) Reporting Violations

- (i) Employees who become aware of or suspect harassment, discrimination, retaliation, or any violation of this policy by any supervisor, co-worker, or member of the public, including judges, supervisors, co-workers, vendors, attorneys, jurors, witnesses, and litigants, must immediately report the violation to the employee's manager, supervisor, or administrative head.
- (ii) Employees are encouraged to use the complaint form available on the Fair Practices Department webpage at <http://mdcourts.gov/fairpractices/forms/fpd305eeocomplaintform.pdf> when reporting prohibited behavior or other violations of this policy.
- (iii) Each manager, supervisor, EEO coordinator, or administrative head shall direct the employee to complete a complaint form, assist the employee in completing the form, or memorialize that an oral complaint was made if the employee did not complete the form.
- (iv) Once received, the complaint shall be provided to the EEO coordinator, administrative head, and FPO for prompt consideration, investigation, and resolution.

(B) Filing a Complaint

- (i) An employee may also report a violation directly to the FPO, in lieu of reporting through the employee's chain of command, by:
 - (I) Completing a complaint form. Forms are available on the Fair Practices Department webpage at <http://mdcourts.gov/fairpractices/forms/fpd305eeocomplaintform.pdf>.
 - (II) Submitting the complaint form by mail or delivery to:
Fair Practices Officer
Fair Practices Department
Internal Affairs Division
580 Taylor Avenue, A-2
Annapolis, Maryland, 21401
 - (III) Submitting the complaint form electronically by email to fairpractices@mdcourts.gov.
- (ii) An employee may direct a telephone inquiry to (410) 260-3679.

- (C) **Filing Complaints Independent of Fair Practices Officer.** If an employee is reluctant to file a complaint with the FPO, or if the complaint concerns the FPO or persons within the Fair Practices Department, the employee may mail a written complaint, via certified mail, return receipt requested and clearly labeled "Confidential," to:

State Court Administrator
Maryland Judicial Center
580 Taylor Ave, A-2
Annapolis, MD 21401

(D) Timeliness of Complaints

- (i) A complaint of discrimination, harassment, or retaliation should be filed as soon as possible.
- (ii) The Fair Practices Department or, when applicable, County Administrative Judge may at their discretion determine that complaints are untimely.

(5) Reporting Violations and Complaints For Employees of the Circuit Courts under the Authority of the County Administrative Judge

- (A) All Circuit Court employees who become aware of prohibited harassment, discrimination, or retaliation, or any violation of this policy, must immediately report the violation to either the employee's manager, supervisor, EEO coordinator, or the administrative head (County Administrative Judge).
- (B) Employees are encouraged to use the complaint form available on the Fair Practices Department webpage at <http://mdcourts.gov/fairpractices/forms/fpd305eeocomplaintform.pdf> to report a prohibited behavior or other violation of this policy.
- (C) Each manager, supervisor, EEO coordinator, or County Administrative Judge shall direct the employee to complete a complaint form, assist the employee in completing the form, or memorialize that an oral complaint was made if the employee did not complete the form.
- (D) Once received, the complaint shall be provided to the EEO coordinator and the County Administrative Judge for prompt consideration, investigation, and resolution.

(6) Reporting Violations and Complaints Concerning Judges of the Maryland Courts

- (A) Employees who become aware of conduct by a judge that constitutes harassment, discrimination, or retaliation in relation to an employee within the Judicial Branch must immediately report the conduct to the judge's supervising judge.
 - (i) For Circuit Court Judges, the report shall be made to the County Administrative Judge;
 - (ii) For District Court Judges, the report shall be made to the Administrative Judge of the District in which the judge serves;
 - (iii) For District Court Administrative Judges, the report shall be made to the Chief Judge of the District Court;
 - (iv) For County Administrative Judges, the report shall be made to the Circuit Administrative Judge;
 - (v) For Appellate Court Judges, the report shall be made to the Chief Judge of the Appellate Court on which the judge serves; and
 - (vi) For the Chief Judge of the District Court, Circuit Administrative Judges, and the Chief Judge of the Court of Special Appeals, the report shall be made to the Chief Judge of the Court of Appeals.
- (B) Employees are encouraged to use the complaint form available on the Fair Practices Department webpage at <http://mdcourts.gov/fairpractices/forms/fpd305eeocomplaintform.pdf> when reporting this conduct. Additional information on the Judicial Disabilities Commission can be found at <http://www.mdcourts.gov/cjd/>.
- (C) The supervising judge, or designee, shall investigate the allegations and take prompt remedial action to correct, remedy, and prevent discrimination, harassment, retaliation, and comply with Maryland Rule 18-102.15 if such remedial action fails or is inappropriate.

(f) Processing, Investigating, and Resolving Complaints

- (1) As soon as possible after receiving the complaint, the EEO coordinator, administrative head, and FPO (but not for complaints involving Circuit Court employees under the supervision of the County Administrative Judge) shall consult to determine:
 - (A) Whether the complaint alleges conduct in violation of the policy (*e.g.*, discrimination or harassment based on a protected class or retaliation);
 - (B) Whether immediate action is warranted; and
 - (C) The identity of the person(s) who shall conduct the investigation.
- (2) This policy prohibits discrimination and harassment on the basis of race, color, religion, sex, marital status, national origin, disability, age, sexual orientation, gender identity, or any other factors or characteristics related to a protected class, as well as retaliation. Investigations under this policy are, therefore, limited to these matters. A complaint that does not allege any of these shall be referred to the appropriate administrative head, or Human Resources.
- (3) **Investigation.** The EEO coordinator, administrative head, FPO (but not for complaints involving Circuit Court employees under the supervision of the County Administrative Judge) or designee shall investigate the allegations of prohibited harassment, discrimination, or retaliation promptly and:
 - (A) Inform the complainant and respondent that every reasonable effort will be made to handle the complaint in a manner that protects the confidentiality of all parties; and
 - (B) Advise the respondent, complainant, and any other persons participating in the investigation that retaliation is strictly prohibited and will not be tolerated.
- (4) **Confidentiality**
 - (A) The administrative head, FPO, or any other person designated, including the EEO coordinator, to conduct the investigation, shall maintain the confidentiality of all actions taken to investigate and resolve complaints under this policy to the maximum extent allowed by law.
 - (B) It is the policy of the Judicial Branch to divulge confidential investigative materials only when required to do so by law.
- (5) **Concluding the Investigation.** Upon completion of the investigation,
 - (A) The administrative head, FPO (but not for Circuit Court employees under the supervision of the County Administrative Judge), or designee shall prepare a report of the investigation.
 - (B) The administrative head, in consultation with the FPO, shall take prompt remedial action to correct, remedy and prevent prohibited discrimination, harassment, and retaliation. For Circuit Court employees under the supervision of the County Administrative Judge, the County Administrative Judge or designee, in consultation with the Office of the Attorney General, shall take prompt remedial action to correct, remedy, and prevent prohibited discrimination, harassment, and retaliation.

(C) The FPO or the County Administrative Judge or designee shall inform the complainant and respondent of the conclusion of the investigation.

(D) The EEO coordinator or FPO shall also inform the complainant of the ability to pursue allegations of harassment, discrimination, or retaliation by filing a charge with the Maryland Commission on Human Relations or the U.S. Equal Employment Opportunity Commission. This notice does not constitute legal advice, nor does it represent all legal remedies or options available to the complainant.

(6) Nothing in this policy precludes the administrative head, in consultation with the JHRD, the FPO, or the Office of the Attorney General from taking immediate steps to correct the situation causing the complaint.

(g) Interpretive Authority: The Fair Practices Department is responsible for the interpretation of this policy.

(h) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

2.7 POLICY ON RECRUITMENT, EXAMINATION, SELECTION, AND PROBATION

(a) Purpose and Scope

- (1) **Purpose.** The purpose is to establish a uniform policy to promote fair and consistent application of recruitment, examination, and selection practices for filling vacant positions in the Maryland Judiciary. The policy also addresses the employment probationary period.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) the employees of the Register of Wills or the Orphans' Court;
 - (iii) the employees of the Attorney Grievance Commission and the Client Protection Fund; and
 - (iv) judges, magistrates, law clerks, appointed positions, and elected officials.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, the Administrative Clerk, or the Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Closing Date** – Last date to submit resumes/applications.
- (3) **Contractual Employee** – Any person whose conditions of employment and compensation are specified in a personal services contract.
- (4) **Job Announcement** – Official notice of a job opportunity within the Maryland Judiciary.

- (5) Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (6) Position Identification Number (PIN)** – A unique number that identifies a position.
- (7) Position** – An employment assignment of duties and responsibilities that requires the full-time employment of one individual or less than full-time employment of one or more individuals.
- (8) Probationary Period** – A trial work period, at the beginning of a regular employee’s tenure in a position, when the employer and employee have an opportunity to determine whether the employment relationship is a good fit for each party. The employee’s performance, work habits, conduct, attendance, and relationships with coworkers and supervisors are evaluated to determine whether the employee is a good fit for the position and the organization.
- (9) Promotion** – An action by which an employee moves from one position to another position that has a higher pay range.
- (10) Recruitment** – The process of finding qualified applicants to fill a vacant Judiciary position.
- (A) External Recruitment – Open to all qualified applicants.
 - (B) Internal Recruitment – Open to qualified current state of Maryland employees. An internal recruitment may be:
 - (i) Restricted to current employees of the Judiciary, by jurisdiction, department, or Judiciary wide; or,
 - (ii) Open to all current employees of Maryland State government.
- (11) Regular Employee** (for the purpose of this policy) – Any person holding a Maryland Judicial Branch of Government budgeted position paid through the Central Payroll Bureau of the Comptroller, not including appointed positions, elected officials, employees of a Register of Wills Office, contractual and temporary positions, and those held by judges, magistrates, and law clerks.
- (12) Temporary Employee** – An employee whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment shall not exceed one year from the date of hire.
- (13) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (14) Vacancy** – An approved position that is not occupied.

(c) Policy Statement

The recruitment, selection, and appointment of an employee must be in accordance with the policies, standards, and procedures of the State Court Administrator.

The JHRD is the State Court Administrator's designee in these matters.

(d) Recruitment

(1) Employment Requisition Form

- (A) For every position that is to be filled, an Employment Requisition Form, which can be found in the Judiciary Human Resources' information system, shall be completed by the administrative head.
- (B) Prior to taking any action to recruit for and fill a vacancy, each Employment Requisition Form and subsequent amendment(s) must be approved by the JHRD.

(2) Job Announcements. The administrative head may, in consultation with the JHRD, choose to recruit externally or internally. All job announcements must be approved by the JHRD.

(e) Application, Testing, and Rating of Applicants

(1) Receipt of Application. To be considered an applicant for a position, a candidate's application must be received during the open recruitment period and meet the minimum qualifications as stated on the job announcement.

(2) Testing. A candidate may be required to take a test prior to beginning employment with the Judiciary.

(3) Rating Qualified Applicants. An administrative head, in consultation with the JHRD, may use any job-related process that is consistently applied to rate qualified applicants, which may or may not include an interview. JHRD will provide additional guidance as necessary.

(f) Background Checks. A background check will be conducted prior to an offer of employment.

(g) Selection

(1) The administrative head will follow the selection process in the Judiciary Human Resources' information system for JHRD's review and approval prior to extending an offer of employment.

(2) Without the express approval of the Director of the JHRD, the start date must be the beginning of a pay period.

- (3) To ensure adequate processing time, selection confirmations should be forwarded to the JHRD at least two weeks prior to the employee's start date.

(h) Probationary Period

With the exception of Subsection (4) of this Section, regular employees are to serve probationary periods as follows:

(1) Initial Probationary Period

- (A) Employees shall serve a six month initial probationary period when first beginning employment with the Judiciary, including those who transfer from other units of State government.
- (B) Employees who are promoted, transferred, or reassigned and who have not completed their initial probationary period, shall begin a new six-month initial probationary period.
- (C) An employee serving an initial probationary period is an "at-will" employee, and may be terminated for any reason.

(2) **Probationary Period Resulting from a Promotion.** Employees who are promoted shall serve a six-month probationary period in the new position.

(3) Probationary Period Resulting from a Transfer, Reassignment, Reinstatement, or Reclassification

- (A) An employee who is transferred, reassigned, or reinstated into a classification shall serve a six-month probationary period in that classification.
- (B) An employee who transfers, or is reassigned to a court or office that is different from the one in which the employee worked prior to the reassignment, or is reinstated to a classification in a different court or office from the one in which the employee worked when he or she left employment, shall serve a six-month probationary period at that location.
- (C) If an employee's classification is reclassified prior to the employee completing a probationary period in the classification, then the employee will serve the remainder of the probationary period in the new classification.

(4) Employees Not Subject to a Probationary Period

- (A) Except for paragraph (1) above, an employee who is an at-will employee, as defined in the Policy on At-Will Employment, will not serve a probationary period.
- (B) An employee who has successfully completed a probationary period in his or her classification and that classification is reclassified will not serve a probationary period in the new classification.
- (C) An employee who is demoted into a classification in which the employee successfully completed a probationary period is not subject to another probationary period in that classification, unless

the position in the new classification is in another court or office. However, the employee may be required to meet certain contingencies in order to retain employment.

- (5) Results of the Probationary Period.** The administrative head, after consulting with the JHRD, shall make one of the following determinations as to the result of the probationary period, prior to its completion:
- (A) Satisfactory completion of the probationary period: If the employee is performing at a satisfactory level at the conclusion of the probationary period, as determined by the administrative head, then the employee has successfully completed the probationary period.
 - (B) Extension of the probationary period: At any time prior to the completion of the probationary period, the administrative head, in consultation with JHRD, may extend a probationary period only once under extenuating circumstances as determined by the JHRD for a period of time not to exceed six months.
 - (C) Rejection on probation: At any time during the probationary period, the administrative head, in consultation with JHRD, may reject on probation an employee who is not satisfactorily performing the job duties or exhibiting satisfactory work habits and conduct.
 - (i) The administrative head shall provide the employee written notice of the rejection on probation, and the effective date of the rejection.
 - (ii) An employee rejected while serving an initial probationary period or as a result of a reinstatement is terminated from employment.
 - (iii) An employee rejected on probation while serving a probationary period as a result of a promotion, transfer, reassignment, or reclassification shall be returned to the employee's previous position or classification, if vacant. If the previous position is not vacant, the administrative head, at his or her discretion, may place the employee in any vacancy in the previous classification or comparable classification for which the employee meets the minimum qualifications, if available. If such a position is not available, the employee's employment will be terminated.
 - (iv) An employee serving a probationary period also may be terminated from employment under the Judiciary's Policy on Disciplinary Actions.
 - (v) After obtaining JHRD's approval, the administrative head shall inform the employee of the determination and any appeal rights the employee may have.
 - (D) If the administrative head fails to make a determination prior to the conclusion of the probationary period, then the employee remains on the probationary period until such time the administrative head makes a determination. Failure to make a timely determination could have an unintended negative impact on the employee, such as, it could impact the employee's eligibility to use annual leave, and to enroll in the Judiciary Leave Bank. Therefore, it is required that the administrative head make the determination in a timely manner.

(i) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy at any time.

Maryland Judicial Branch

POLICY ON RELIGIOUS ACCOMMODATION

(a) Purpose and Scope

(1) Purpose

- (A) The Judicial Branch recognizes and honors the value and dignity of each employee and respects the sincerely held religious beliefs, observances, and practices of those employees.
- (B) This policy sets forth the process for requesting an accommodation of a religious belief, observance, or practice and assigns responsibilities for resolving such requests.
- (C) The Judicial Branch will make a good faith effort to provide reasonable accommodations to employees and applicants whose sincerely held religious beliefs, observances, or practices conflict with Judicial Branch policies, procedures, or other work requirements, unless such accommodations would create undue hardship.
- (D) Retaliation against an applicant or employee because he or she has requested a religious accommodation or participated in the processing of a religious accommodation request or complaint is prohibited.

(2) Scope

- (A) This policy applies to:
 - (i) applicants for employment; and
 - (ii) all persons employed by a court, unit, or judicial entity organized within the Judicial Branch
 - (I) including regular, temporary, and contractual employees;
 - (II) regardless of the source of the employee's compensation (*e.g.*, county, state, federal, grant).
- (B) This policy does not apply to:
 - (i) the employees of the Register of Wills or the Orphans' Court; and
 - (ii) judges, except to the extent that certain judges serve as the administrative head of a judicial entity and, therefore, perform administrative duties consistent with this policy.

(b) Definitions

(1) Administrative Head

- (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge of the Appellate Court where the employee works for all other Appellate Court employees;
- (B) The Clerk of the Circuit Court for all employees under the Clerk's supervision;
- (C) The County Administrative Judge for all employees under the supervision of the Administrative Judge;

- (D) For the District Court, the Chief Judge of the District Court, the Chief Clerk, the Administrative Clerk, or Administrative Commissioner for all employees under his or her supervision;
- (E) For the Administrative Office of the Courts, the State Court Administrator;
- (F) For units organized within the Judicial Branch, the head of the unit where the employee works; and,
- (G) Any person who, by express written designation, serves as the authorized designee of an administrative head.

- (2) **Equal Employment Opportunity (EEO) Coordinator** – An employee of a Circuit Court, subject to the supervision of the County Administrative Judge, designated to receive and, upon request, investigate complaints of discrimination, harassment, and retaliation and to provide support and technical assistance in addressing religious accommodation requests for employees of the Circuit Courts under the supervision of the County Administrative Judge. For all other employees, the FPO shall serve as the EEO coordinator.
- (3) **Fair Practices Department (FPD)** – The administrative office organized within the Administrative Office of the Courts (AOC) that is charged with ensuring compliance with equal opportunity, non-discrimination, and other civil rights laws.
- (4) **Fair Practices Officer (FPO)** – An employee in the Fair Practice Department of the Administrative Office of the Courts responsible for ensuring compliance with federal and state equal opportunity laws, and overseeing the investigation of complaints of discrimination, harassment, and retaliation brought under this policy and under state and federal law. For all employees, other than employees of a Circuit Court subject to the supervision of a County Administrative Judge, the FPO is designated to receive and investigate complaints of discrimination, harassment, and retaliation.
- (5) **Judicial Entity** – The Court of Appeals; the Court of Special Appeals; a Circuit Court or any department thereof; the District Court or any department thereof; the Administrative Office of the Courts or any department thereof; a unit of the Judiciary.
- (6) **Judiciary Representative** – For an employee, the Judiciary representative is the employee’s supervisor or EEO coordinator. For an applicant, the Judiciary representative is the individual identified in the job announcement or, if not stated, the Director of the Judiciary’s Human Resources Department, or the EEO coordinator.
- (7) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (8) **Religion** – “Religion” includes all aspects of religious belief, observance, and practice. “Religion” includes all widely practiced religions, as well as other systems of belief or worship.

- (9) Religious Belief** – “Religious Belief” includes, but is not limited to, a sincerely held belief in a deity or deities, as well as non-theistic moral or ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views.
- (10) Religious Observance or Practice** – “Religious observance or practice” includes, but is not limited to, attending worship services, praying, wearing religious attire or symbols, displaying religious objects, adhering to certain dietary rules, other forms of religious expression, or refraining from certain activities.
- (11) Religious Accommodation** – Any change in the application process or work environment, or in the way work or responsibilities are customarily done, that enables an employee or applicant to participate in his or her religious belief, observance, or practice. An accommodation may include an exception to dress code policies.
- (12) Undue Hardship** – An “undue hardship” occurs when granting a request would result in more than a minimal cost or burden on operations. Factors to consider in determining whether an accommodation would impose an undue hardship include, but are not limited to: the nature and cost of the requested accommodation; the impact on resources and business operations; any impact on workplace safety; and the number of employees requiring similar accommodation at the same time.
- (13) Unit** –The Attorney Grievance Commission, the Client Protection Fund, the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Management Responsibilities

- (1)** Each administrative head shall ensure that each supervisor, manager, and director who reports to the administrative head is familiar with the Judicial Branch policy providing for the reasonable accommodation of religious beliefs and practices in the workplace, specifically that the Judicial Branch provides reasonable accommodations:
- (A) to employees and applicants whose sincerely held religious belief, observance, or practice conflicts with a Judicial Branch policy, procedure, or other work or application/hiring requirement, unless such an accommodation would create an undue hardship; and
 - (B) A substantiated complaint of discrimination or retaliation based on religion shall result in remedial or disciplinary action, or both, up to and including termination of employment.
- (2)** Each County Administrative Judge shall designate a person to serve as the EEO coordinator for the employees under the Administrative Judge’s supervision and communicate that designation in writing to those employees and to the Judicial Branch FPO.

(d) Request for Religious Accommodation

(1) Employee

- (A) An employee whose religious beliefs or practices conflict with his or her job, work schedule, or with the employer’s policy or practice on dress and appearance, or with other aspects of

employment, may request a religious accommodation by submitting a written request for accommodation to the employee's immediate supervisor or the designated EEO coordinator, or by notifying the employee's immediate supervisor or the designated EEO coordinator of the need for accommodation.

- (B) Employees are encouraged to use the Request for Religious Accommodation form available on the Judicial Branch website at <http://www.mdcourts.gov/fairpractices/religious/religiousaccommodationpolicyrequest.pdf>.
- (C) The written request must identify or describe the conflict between a work requirement and the employee's religious belief, observance, or practice, and the employee's proposed accommodation.
- (D) The supervisor or EEO coordinator shall direct the employee to complete a request form, assist the employee in completing the form, or memorialize that an oral request was made if the employee did not complete the form.
- (E) A request for a religious accommodation must be made within a reasonable amount of time prior to the time that the accommodation is needed in order to minimize impact to Judiciary operations.

(2) Applicant

- (A) An applicant whose religious beliefs, observances, or practices conflict with some aspect of the application or hiring process or with the employer's policy or practice on dress and appearance may seek a religious accommodation by submitting a written request for accommodation to a Judiciary representative.
- (B) The written request must identify or describe the conflict between the application/hiring process or requirement and the applicant's religious belief, observance, or practice and the applicant's proposed accommodation.
- (C) Applicants are encouraged to use the Request for Religious Accommodation Form available on the Judicial Branch website at <http://www.mdcourts.gov/fairpractices/religious/religiousaccommodationpolicyrequest.pdf>.
- (D) A request for a religious accommodation must be made within a reasonable amount of time prior to the date that the accommodation is needed in order to minimize impact to Judiciary operations.

- (3)** Under this policy, the Judicial Branch FPD provides technical assistance and guidance to the Circuit Court EEO coordinator, Circuit Court supervisor, and administrative head (County Administrative Judge) upon request. The requirement that a religious accommodation request and disposition be submitted to the FPD and that the Judiciary representative consult with the FPD does not apply to requests for religious accommodations made by employees of or applicants to the Circuit Court under the supervision of the County Administrative Judge.

(4) Judiciary Representative: Upon receipt of an employee's or an applicant's request for religious accommodation, the Judiciary representative shall promptly:

- (A) Notify the administrative head or designee and EEO coordinator of the request; and
- (B) Contact the Fair Practices Department for guidance.

(5) Fair Practices Department

- (A) The Fair Practices Department is responsible for compliance with and oversight of this policy.
- (B) The Fair Practices Department will provide technical assistance, guidance, and recommendations for resolving a religious accommodation request to a Judiciary representative.

(6) Decision on Accommodation Request

- (A) After receiving guidance and recommendations from the Fair Practices Department, and engaging in an interactive process where needed, the Judiciary representative, in consultation with the administrative head, will notify the employee or applicant of the decision to grant or deny the request for accommodation.
- (B) The decision must be documented on the Request for Religious Accommodation Form and a copy provided to the Fair Practices Department.

(e) Complaints

- (1)** An employee or applicant who believes that he or she has been discriminated against based on religion, including the denial of a religious accommodation request, or retaliated against for exercising a right under a civil rights statute may file a complaint under the Judicial Branch Policy Prohibiting Discrimination, Harassment, and Retaliation, Sections (e)(4) and (5).
- (2)** An applicant or employee of a Circuit Court (under the supervision of the County Administrative Judge) may file a complaint with the supervisor, manager, EEO coordinator, or administrative head (County Administrative Judge).
- (3)** An applicant or employee of the Clerks' Offices, courts, units, and judicial entities other than the Circuit Courts may file a complaint with:

(A) The supervisor, manager, or administrative head; or

(B) The FPO

Fair Practices Officer
Fair Practices Department
Internal Affairs Division
580 Taylor Avenue, A-2
Annapolis, Maryland, 21401

Complaint forms may be submitted to the FPO by email to fairpractices@mdcourts.gov.

(C) Employees and applicants are encouraged to use the complaint form available on the Fair Practices Department webpage at <http://mdcourts.gov/fairpractices/forms/fpd305eeocomplaintform.pdf>.

(4) External Complaints. An employee may also file a charge with the Maryland Commission on Civil Rights or the U.S. Equal Employment Opportunity Commission. Notice of this option does not constitute legal advice nor does it represent all legal remedies or options available to an employee.

(f) Confidentiality: All individuals involved in the processing of a religious accommodation request, including but not limited to the Judiciary representative(s), administrative head, and the staff of the Fair Practices Department, shall disclose information related to a religious accommodation request only as necessary to resolve the request, or in the best interests of the Judicial Branch.

(g) Interpretive Authority: The Fair Practices Department, in consultation with other Judicial Branch offices, as appropriate, is responsible for the interpretation of this policy.

(h) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

2.9 POLICY ON SEPARATION FROM EMPLOYMENT

(a) Purpose and Scope

- (1) Purpose.** The purpose of this policy is to establish uniform practices for separation from employment with the Maryland Judiciary, excluding involuntary termination of employment (For involuntary termination of employment, see the Policy on Disciplinary Actions).
- (2) Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) Administrative Head:**
 - (A) For the Court of Appeals and Court of Special Appeals, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) The Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (3) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (4) **Work Day** – An employee’s normally scheduled work day.

(c) Policy Statement

There are many reasons for which an employee may choose or be required to leave employment with the Judiciary. This policy describes the general categories of separation (excluding the involuntary termination of employment for reasons other than reduction in force) and outlines procedures to follow. The involuntary termination of employment for reasons other than reduction in force for regular employees is covered under the Policy on Disciplinary Actions.

(d) Separation from Employment

- (1) **Resignations** (Except for Resignations in-Lieu-of Termination, which are covered in the Policy on Disciplinary Actions.)
 - (A) A resignation is an oral or written statement by an employee of intent to voluntarily terminate employment with the Judiciary. An employee planning to resign should submit a written notice of resignation to the immediate supervisor or the administrative head specifying the last day of employment and the reason for leaving. If the employee resigns orally and does not submit a written resignation, then the supervisor shall prepare a written memorandum to the employee and the administrative head confirming the resignation, including the last day of work. The administrative head shall promptly notify the JHRD of the resignation.
 - (B) For an employee to resign or transfer from the Judiciary in good standing, the employee must provide the resignation notice at least two weeks before the last day of work. The Director of the JHRD may grant discretionary exceptions to this requirement based on unusual or extenuating circumstances. Once the resignation is provided, the administrative head, in consultation with the JHRD and with or without the approval of the employee, may make the effective date of the resignation earlier than the date the employee provided, if the administrative head and JHRD determine it is in the best interest of the Judiciary to do so.
- (2) **Job Abandonment**
 - (A) An employee who does not report to work for three consecutive work days, does not notify the supervisor of the extent and cause of the absence, and does not provide sufficient supporting documentation, has abandoned his or her employment absent extraordinary circumstances.
 - (B) If this occurs, the supervisor must promptly notify the administrative head. The administrative head shall promptly provide written notification to the JHRD. Job abandonment is a voluntary

resignation without notice and precludes the employee from future employment with the Judiciary.

- (C) The administrative head and the JHRD shall consult and prepare a written notice to the employee, which either the administrative head or the JHRD, as they prefer, must deliver to the employee in person, by mail, or by any other effective means. The notice shall advise the employee that he or she has abandoned his or her position and, therefore, has voluntarily resigned from employment. The notice also shall indicate the effective date of the resignation. The effective date shall be the last day the employee was at work or on approved leave, whichever last occurred. The notification shall provide at least three work days for the employee to respond with any extraordinary circumstances that the employee believes would warrant a reversal of the determination.
- (D) If the employee does not respond to the notice, the job abandonment stands. If the employee responds, the administrative head shall consider the employee's response and, in consultation with the JHRD, has the discretion to rescind the job abandonment or allow it to stand. The employee may not grieve this decision.

(3) Reductions in Force

- (A) Reductions in Force (RIFs) normally arise from a reduction in funding or lack of work. Such actions may result, however, from reorganization, restructuring, and/or re-engineering some aspect of the operation of the Judiciary.
- (B) Employees separated from employment because of a RIF may reapply for any future vacancy with the Judiciary for which they qualify. Separations from employment due to a RIF are not subject to a grievance action.

(4) Retirement. An employee who is a member of the Maryland State Retirement and Pension System has two retirement options: length of service and disability.

- (A) Length of Service. An employee planning to retire due to length of service must submit a written notice of intent to retire and the effective date of the retirement to the administrative head and the JHRD as early as possible, preferably no later than two months before the effective date of retirement. The employee must promptly complete the necessary retirement paperwork.
- (B) Disability Retirement
 - (i) Ordinary Disability. An employee who supplies medical documentation confirming inability to continue employment or to perform his or her essential job duties due to an illness or medical condition may apply for disability retirement. To be eligible, the employee must have:
 - (I) A minimum of five years of eligibility service;
 - (II) Permanent incapacity to perform his or her job duties due to medical reasons; and,

- (III) Approval by the Medical Board and Board of Trustees of the Maryland State Retirement Agency.
 - (ii) An employee who believes he or she may be eligible for disability retirement should contact the local human resources associate or JHRD for the appropriate forms.
- (C) **Accidental Disability Retirement.** An employee who supplies medical documentation confirming inability to continue employment or perform his or her essential job duties due to an accidental on-the-job injury may apply for accidental disability retirement. For an employee to be eligible for accidental disability retirement, all of the following requirements must be met:
- (i) The employee must be totally and permanently disabled as the direct result of a specific accident that occurred at a definite time and place;
 - (ii) The accident(s) occurred while the employee was performing assigned duties;
 - (iii) The employee is not responsible for the accident(s) through willful negligence;
 - (iv) The disabling condition was caused by an accident that occurred within the last five years. (If the employee does not meet the five-year filing deadline for accidental disability, the employee may still be eligible to file for ordinary disability.); and
 - (v) The employee's claim is approved by the Medical Board and Board of Trustees of the Maryland State Retirement Agency.
- (D) There is no minimum service requirement for accidental disability benefits.
- (E) An employee who believes he or she may be eligible for accidental disability should contact the local human resources associate or JHRD.

(e) Leave Requests Pending Separation from Employment

The supervisor has discretion to grant or deny requests for leave presented by an employee who has given notice of resignation or retirement or who has received notice of a RIF or termination of employment. To the extent practicable, such leave requests should be processed in accordance with the appropriate Judiciary leave policy. If an employee does not report to work after submitting a two-week notice of resignation or retirement and is absent without approval, then the separation from employment will not be in good standing.

(f) Judiciary Exit Survey Form

Supervisors or administrative heads should, upon an employee's separation from employment, provide the employee with a Judiciary Exit Survey form. The employee may complete the form and mail, email, or fax it to the JHRD, Office of Employee Relations and ADA Compliance.

(g) Security and Return of Personal Property

- (1)** For security reasons, the only individuals who may have access to an employee's work space, equipment, and personal property upon the employee's separation from employment are:
 - (A) The employee, with approval of Judiciary management and security personnel;

- (B) Judiciary management and security personnel; and,
- (C) With proper authorization, appropriate law enforcement personnel.

(2) An employee's personal belongings may be provided to the following individuals upon the employee's separation from employment:

- (A) The employee;
- (B) An authorized representative of the employee, with the approval of Judiciary management and security personnel; and,
- (C) With proper authorization, appropriate law enforcement personnel.

(h) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(i) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provisions of this policy.

(j) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

2.10 POLICY ON TEMPORARY EMPLOYMENT

(a) Purpose and Scope

- (1) Purpose.** The purpose of this policy is to establish a uniform practice for the administration of temporary employment in the Maryland Judiciary.
- (2) Scope**
- (A) This policy applies to:
- (i) temporary employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) temporary employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (B) This policy does not apply to:
- (i) regular and contractual employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) regular and contractual employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (iii) locally funded employees in the Circuit Courts;
 - (iv) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (v) employees of the Register of Wills or the Orphans' Court; and
 - (vi) judges and law clerks.

(b) Definitions

- (1) Administrative Head:**
- (A) For the Court of Appeals and Court of Special Appeals, the Clerk of the Court for all employees under the Clerk's supervision; and the Chief Judge of the Court for all other employees in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts ("AOC"), the State Court Administrator;
 - (E) For the District Court Headquarters, the director of the department where the employee works;
 - (F) For any units, the head of the unit where the employee works; or,
 - (G) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.

- (2) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (3) **Position** – A set of duties and responsibilities performed for a job.
- (4) **Temporary Employee** – An employee whose condition of employment is not governed by a personal services contract, and whose position is not specifically budgeted, and whose period of employment is not to exceed one year from the date of hire.
- (5) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

The Maryland Judicial Branch of Government employs individuals in a temporary capacity, not to exceed one year, when a court or office lacks adequate resources to address increased workloads or unexpected extended absences of regular employees. The use of temporary employment is limited and is based upon sufficient justification from the administrative head to the State Court Administrator. Temporary employees are “at-will” employees and are not entitled to progressive discipline, paid leave (except for certain types of administrative leave under the Policy on Leave and any other leave identified in employment information provided to a temporary employee when hired and as updated thereafter), or retirement benefits. All temporary employees will be required to sign the Acknowledgement of Temporary Status form at the start of their employment with the Maryland Judiciary.

The JHRD is responsible for the recruitment, on-boarding, and separation of all temporary employees in accordance with existing policies.

Temporary employees will be considered internal Judicial Branch employees for purposes of recruitment and selection when filling regular permanent Judiciary positions.

- (d) **Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.
- (e) **Exceptions:** The State Court Administrator may make exceptions to this policy based on documented exigent circumstances.
- (f) **Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

Maryland Judicial Branch

POLICY ON CONFIDENTIALITY

(a) Purpose and Scope

- (1) Purpose.** The Maryland Judicial Branch has possession of and access to confidential data and information, in paper and electronic form, that, by law, rule, or policy is not accessible without authorization. An employee within the Judicial Branch may have access to such data and/or information, or other information that is legally privileged. It is essential that employees understand and acknowledge the critical importance of ensuring that the confidentiality of such data and information is maintained at all times, both during and after the course of employment. Section (c) identifies responsibilities and requirements of employees in maintaining the confidentiality of Judicial Branch data and information.
- (2) Scope**
 - (A) This policy applies to:
 - (i) applicants for employment; and
 - (ii) all persons employed by a court, unit, or judicial entity organized within the Judicial Branch
 - (I) including regular, temporary, and contractual employees;
 - (II) regardless of the source of the employee's compensation (*e.g.*, county, state, federal, grant).
 - (B) This policy does not apply to:
 - (i) the employees of the Register of Wills or the Orphans' Court; and
 - (ii) judges, except to the extent that certain judges serve as the administrative head of a judicial entity and, therefore, perform administrative duties consistent with this policy.

(b) Definitions

- (1) Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision and the Chief Judge of the Appellate Court where the employee works for all other Appellate Court employees;
 - (B) The Clerk of the Circuit Court for all employees under the Clerk's supervision;
 - (C) The County Administrative Judge for all employees under the supervision of the Administrative Judge;
 - (D) For the District Court, the Chief Judge of the District Court, the Chief Clerk, the Administrative Clerk, or the Administrative Commissioner for all employees under his or her supervision;
 - (E) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (F) For units organized within the Judicial Branch, the head of the unit where the employee works; and,
 - (G) Any person who, by express written designation, serves as the authorized designee of an administrative head.

- (2) Confidential Data and/or Information** – Data and/or information, whether in paper or electronic form, that the Judicial Branch is prohibited by Rule, law, or policy from disclosing, including but not limited to:
- (A) Case data;
 - (B) Personnel data;
 - (C) Financial data;
 - (D) Trade secrets;
 - (E) Proprietary information;
 - (F) Procurement data; and
 - (G) Administrative records.

(3) Judiciary Human Resources Department (JHRD) – The department within the AOC that is responsible for, but not limited to, the following functions for State-funded employees within the Judicial Branch: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

(4) Unit - The Attorney Grievance Commission, the Client Protection Fund, the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Employee Responsibilities: Employee responsibilities, with respect to maintaining the confidentiality of the Judicial Branch’s data and information, include, but are not limited to:

- (1)** An employee shall not during, or at any time following Judicial Branch employment, use, permit to be used, misuse, or divulge to individuals who are not authorized to receive any confidential or legally privileged data and/or information obtained during the course of employment.
- (2)** An employee shall not intentionally access, attempt to access, reproduce, or disclose any confidential or legally privileged data and/or information, whether in paper or electronic form, unless it is necessary for the performance of the employee’s duties.
- (3)** If an employee mishandles, improperly divulges, or improperly acquires confidential information, the employee will immediately inform his or her administrative head.
- (4)** The Maryland Judiciary shall, at all times, be considered the owner of all research, notes, data, data bases and applications, computations, and estimates or other such information, recordings, videos, work-related emails, and documents, or other work product obtained or created during the performance of the employee’s duties, and of any memoranda, reports or other work product resulting therefrom; and an employee will not use or share any of these materials or information during or after employment with the Maryland Judiciary except as necessary to perform his or her duties or as expressly allowed by the Maryland Judiciary.
- (5)** Upon the termination of employment, an employee will return to the employee’s administrative head all work product and confidential documents which the employee created or to which the employee had access during his or her employment, including but not limited to, reports, manuals,

computer programs, and all other materials relating in any way to the business of the Judicial Branch. The employee will not allow any third party to examine or make copies of the employee's work product or confidential documents.

- (6) Upon termination of employment, the employee will return, to the employee's administrative head, any electronic device belonging to the Judicial Branch that stores confidential information created or accessed as a result of the employee's relationship with the Judiciary; the employee will not attempt to access that device or disseminate any Judiciary-related data or information stored within it; and the employee will destroy all Judiciary-related information that he or she stored on personal devices during the period of employment.
- (7) When in doubt as to whether data and/or information is confidential or legally privileged, an employee shall consult with management before disseminating the data and/or information.

(d) Failure to Comply: A violation of any provision of this policy may result in:

- (1) Disciplinary action against the employee, up to and including termination of employment, as determined by the appropriate administrative head;
- (2) Injunctive relief;
- (3) Damages; and
- (4) Criminal liability.

(e) Interpretive Authority: The JHRD, in consultation with other Judicial Branch offices, as appropriate, is responsible for the interpretation of this policy.

DEPARTMENT OF HUMAN RESOURCES

3.2 POLICY ON DISCIPLINARY ACTIONS

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish a uniform practice for the imposition of disciplinary actions within the Maryland Judiciary.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his/her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Director** – The person responsible for the overall operation of a department or office within the AOC, the Circuit Courts, the District Court Headquarters, or unit.
- (3) **Disciplinary Action** – A corrective measure that management imposes upon an employee.
- (4) **Employee** – Any person employed by the Maryland Judiciary or a unit of the Maryland Judiciary, except Judges, elected officials, employees of a Register of Wills Office or Orphans' Court, and at-will employees as defined in the Policy on At-Will Employment.

- (5) **Exempt Employee** – An employee who is exempted from the overtime provisions of the Fair Labor Standards Act.
- (6) **Grievance** – An employee’s written complaint as defined in the Judiciary Policy on Grievances.
- (7) **Insubordination** – An improper response by an employee to management's exercise of authority. Common to all forms of insubordination is a willful and deliberate indifference to or defiance of managerial or supervisory authority. However, it is not insubordination to disobey a managerial or supervisory directive that is illegal or places the employee or another individual in immediate physical danger.
- (8) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (9) **Judiciary Premises/Property** – The offices, facilities, and surrounding areas on Judiciary-owned or Judiciary-leased property, parking lots, and storage areas. The term also includes Judiciary-owned or Judiciary-leased vehicles and equipment wherever located.
- (10) **Termination** – An employee’s involuntary separation from employment with the Maryland Judiciary.
- (11) **Termination with Prejudice** – A termination due to misconduct so severe that it warrants permanently barring the employee from future state government employment.
- (12) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (13) **Work Day** – An employee’s normally scheduled work day.

(c) Policy Statement

The purpose of imposing a disciplinary action is to address an employee’s deficient employment performance or conduct, including but not limited to infractions of Judiciary policies, rules, and standards. A disciplinary action is primarily corrective in nature, not punitive.

The administrative head, in consultation with the JHRD, may impose whatever form of disciplinary action is warranted.

(d) Employee Responsibilities and Protection

- (1) Employees are responsible for knowing and following the policies, rules, standards, and expectations established by the Judiciary for its employees. The Judiciary's personnel policies are available on the Judiciary website and on request from the employee's administrative head or the JHRD. Failure to comply with a published policy because the employee has not read it does not excuse the non-compliance.
- (2) An employee may file a grievance when a disciplinary action is imposed, pursuant to the Judiciary Policy on Grievances.

(e) Types of Disciplinary Actions

- (1) **Available types of Disciplinary Actions include, but are not limited to:**
 - (A) A written reprimand;
 - (B) Suspension without pay (or with forfeiture of accrued leave days). Suspensions may not exceed 80 work hours unless approved in writing by the Director of the JHRD or imposed by the State Court Administrator, Deputy State Court Administrator, or the Chief Judge of either the District Court, Court of Special Appeals, or Court of Appeals. Exempt employees may not be suspended for less than one work day;
 - (C) Denial of a pay raise/merit increase;
 - (D) Involuntary demotion or reduction in pay (excluding a reduction resulting from a Judiciary salary reduction plan); and
 - (E) Termination of employment.
- (2) **A Disciplinary Action does not include:**
 - (A) An instructional communication to the employee, such as a counseling session, a memorandum of instruction, an oral or written warning, or a Performance Improvement Plan.
 - (B) Putting an employee on leave-without-pay status for non-disciplinary reasons, including when the employee is absent without approval or when the employee does not have paid leave or is ineligible to use paid leave for the absence. An employee who is placed on leave-without-pay status for an unapproved absence may also be subject to disciplinary action.
 - (C) Being placed on paid administrative leave.

(f) Disciplinary Procedure

(1) Imposing a Disciplinary Action

- (A) The following steps should be followed when imposing a disciplinary action, if the employee is available for them, and unless immediate termination or other immediate action is warranted under Section (f)(2) below. If the employee is unavailable, see Section (f)(1)(B) below.
 - (i) The administrative head shall inform the JHRD promptly whenever there may be cause to impose a disciplinary action.

- (ii) The JHRD, or with the JHRD's approval the administrative head will investigate to determine whether the facts warrant disciplinary action. The investigation need not follow a specific format but may include interviewing witnesses with relevant information and reviewing relevant documents. The JHRD has discretion to determine who may attend interviews and participate in the investigation.
 - (iii) The investigator(s) must meet with the employee, if possible, at the beginning of the investigation after the JHRD receives notice of potential cause for disciplinary action under Section (f)(1)(A)(i) to notify the employee of the conduct that might constitute a violation of Judiciary policies, rules, or standards, and give the employee an opportunity to respond to the allegations. The employee may respond with any explanatory facts within two work days, in writing, if possible (with email being an acceptable means). If the employee is unavailable for an in-person meeting, then the meeting may take place by telephone.
 - (iv) The investigator(s) must consider any mitigating or aggravating factors.
 - (v) The JHRD and the administrative head will determine the appropriate disciplinary action to be imposed, if any, after considering the available information and consulting with other parties as necessary. If the JHRD and the administrative head cannot reach agreement, then the determination of the JHRD shall prevail.
 - (vi) If the decision is to proceed with the disciplinary action, then the administrative head, in consultation with the JHRD, shall provide the employee with written notice of the conduct being disciplined, the form of disciplinary action, a copy of the Policy on Grievances, and a grievance form. The notice must advise the employee to refer to the Policy on Grievances for the method and deadline for filing a grievance. Notice may be provided by:
 - (I) Hand delivery if the employee is at work;
 - (II) Certified mail, return receipt requested, to the last known address of record;
 - (III) Fax; or
 - (IV) Email.
- (B) If the employee is unavailable at any stage or in any manner during the investigation or is unwilling to participate, the determination of an appropriate disciplinary action may occur without the employee's involvement, and the administrative head, in consultation with the JHRD, shall provide the employee with a notice of the disciplinary action by any of the methods in Section (f)(1)(A)(vi).
- (C) Management's failure to follow the steps listed above does not provide grounds for a grievance action or to overturn a disciplinary action.

(2) Management Discretion in Imposing Disciplinary Actions. The administrative head, in consultation with the JHRD, has discretionary authority to skip steps in the progression of disciplinary actions, depending on management's interpretation of the frequency and/or seriousness of the offense and the nature of the employee's work assignment. Nothing in this policy precludes the administrative head, in consultation with the JHRD, from immediately placing an employee on paid or unpaid administrative leave to protect the interest of the Maryland Judicial Branch of Government or its employees. Such leave may continue pending conclusion of the investigation described in Section (f)(1) of this policy.

(3) Duration of Investigation. Generally, management should complete its investigation and impose any disciplinary action within 45 work days after first receiving notice of the employee actions that are the potential cause for discipline, except under unusual circumstances (for example, when related non-JHRD investigations warrant continuing the JHRD investigative period beyond 45 work days). There is no employee right to a decision within any given time period.

(4) Records Management

- (A) The supervisor responsible for completing an employee's performance evaluation may keep notes and documents regarding an employee's performance and disciplinary actions imposed in a secure place in the supervisor's office. The supervisor must promptly provide all records that are used to support a disciplinary action to the JHRD for inclusion in the employee's official personnel file. The supervisor should not retain such records beyond three years.
- (B) An employee may request in writing for the JHRD to remove a disciplinary action from the employee's official personnel file after seven years if there has not been a subsequent disciplinary action. The disciplinary action can be removed only if the administrative head and the JHRD concur. A decision to not remove the disciplinary action is not grievable.

(g) Reasons for Disciplinary Actions: Specific reasons for imposing a disciplinary action are numerous and varied. For the benefit of employees and managers, and because of its severity, examples of causes for termination of employment are identified below. However, termination as well as lesser disciplinary actions may be imposed for causes other than those listed.

(1) The following actions shall result in automatic termination of employment:

- (A) Intentional conduct, without justification, that:
 - (i) Seriously injures another person;
 - (ii) Causes substantial damage to property;
 - (iii) Seriously threatens the safety of the workplace and/or the public;
 - (iv) Seriously impairs the ability of the Judiciary to perform its function; or,
 - (v) Results in a breach of conduct so severe that it compromises, or if known by the public would compromise, the mission, integrity and/or reputation of the Judiciary.
- (B) Theft of Judiciary property with a value of \$100.00 or greater.
- (C) Sale of controlled dangerous substances on the job.
- (D) Use or possession of controlled dangerous substances on the job unless prescribed by a physician.
- (E) Felony conviction.
- (F) Accepting for personal use any fee, gift, or other valuable thing in connection with or during the course of Judiciary employment if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons.
- (G) Wantonly careless conduct or unwarranted excessive force in the treatment or care of an individual who is a client, patient, or prisoner in state custody, or any other individual who is lawfully on or in Judiciary premises/property.

(2) The following also may be sufficient cause for Termination of employment:

- (A) Incompetence or ineffectiveness in the performance of assigned duties.
- (B) Inability to perform the essential functions of the employee's position.
- (C) Insubordination, disrespect, or offensive conduct toward a supervisor or Judiciary official, a fellow employee, or the public.
- (D) Damage to public property or waste of public resources due to the employee's negligence or willful conduct.
- (E) Theft of Judiciary property with a value of less than \$100.00.
- (F) Willfully making a false statement to a supervisor, and/or in any official document, proceeding, or report.
- (G) Involvement in criminal activity or any other activity, on or off the job, that reasonably calls into question the employee's trustworthiness and honesty, or his or her ability to perform his or her duties in a professional, safe, fair or impartial manner, or that if known by the public, would bring the Judiciary into disrepute.
- (H) Improper divulging of confidential information.
- (I) Misuse of the influence of the employee's position as a Maryland Judicial Branch of Government employee.
- (J) Any use, threatened use, or attempted use of political influence or the influence of any Maryland Judicial Branch of Government employee or officer in any employment related matter, decision or action involving the employee, to include but not be limited to: securing employment, promotion, transfer, leave of absence, or increase in pay; disciplinary actions; and furloughs or reduction-in-force (but not including routine letters or oral statements of reference for employment or promotion).
- (K) Unauthorized use of Judiciary facilities or equipment, including but not limited, to the telephone system, mail system, and/or computer system.
- (L) The employee's failure to follow a Judiciary or other applicable state government policy.

(h) Alteration of Duties and Compensation Pending Termination: To protect the interests of the Maryland Judicial Branch of Government pending completion of an investigation prior to termination of employment, the State Court Administrator or the Chief Judge of the District Court, in consultation with the Director of the JHRD, may take action which may include, but is not limited to, reassignment of duties, transferring the employee, or placing the employee on paid or unpaid administrative leave. Actions taken under this Section are not grievable.

(i) Resignation when Termination of Employment is in Process: A resignation that is provided when the termination of employment is in process is not a resignation in good standing and precludes the employee from being rehired by the Judiciary.

(j) Termination Precludes Future Employment

- (1)** An individual who is terminated from the Judicial Branch under this policy, or who provides a resignation in-lieu-of termination, will be ineligible for rehire with the Judiciary, unless the Director of the JHRD determines otherwise. The employee still may be eligible for employment with another unit of state government unless the termination was a termination with prejudice.

- (2) An individual who is terminated with prejudice from the Judiciary will be ineligible for rehire with another branch of state government. The Judicial Branch will not hire an individual who was terminated with prejudice from another unit of state government.
- (k) **Settlement of an Appeal of Termination:** An appeal of a termination of employment may not be settled except on terms approved by the Chief Judge of the District Court or the State Court Administrator.
- (l) **Designees:** An administrative head or the Director of the JHRD may designate any Judiciary employee to serve or act on his or her behalf in matters pertaining to this policy.
- (m) **Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.
- (n) **Interpretive Authority:** JHRD is responsible for the interpretation of this policy.
- (o) **Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

3.3 POLICY ON GRIEVANCES

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish a uniform policy for the resolution of grievances in the Maryland Judiciary.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Conference** – A fact-finding meeting of the parties conducted by a conference officer.
- (3) **Conference Officer** – The person designated by the Director of the JHRD to conduct a fact-finding conference.
- (4) **Director** – The person responsible for the overall operation of a department or office within the AOC, the District Court Headquarters, or unit.
- (5) **Employee** – Any person employed by the Maryland Judicial Branch of Government paid through the Central Payroll Bureau of the Comptroller, or employed by a unit, except Judges, elected officials,

employees of a Register of Wills Office and at-will employees as defined in the Policy on At-Will Employment.

(6) Employee Representative – An individual chosen by the grievant to represent him or her in the grievance process.

(7) Grievance:

- (A) An employee’s formal written complaint, which alleges a specific injury suffered by the employee, including a disciplinary action, as a direct result of the wrongful application or lack of application of a policy, regulation, procedure, or rule over which management has control.
- (B) A “grievance” does not include a dispute about the following:
 - (i) A pay grade or salary range assigned to a classification;
 - (ii) The amount or effective date of a cost-of-living adjustment, merit increase, Judiciary-wide pay increase or decrease, or furloughs;
 - (iii) The establishment of a classification;
 - (iv) The establishment of classification standards;
 - (v) Personnel decisions involving:
 - (I) recruitment and hiring;
 - (II) classification decisions related to an employee’s position;
 - (III) assignment, reassignment or transfer when such decisions are necessitated by a reorganization of the unit, or when occurring in accordance with the Policy on Reassignment and Transfer; and
 - (IV) Probationary employees.
 - (vi) A midyear performance evaluation;
 - (vii) An annual performance evaluation, unless the evaluation has an overall rating that does not meet the minimum standards for that position;
 - (viii) A complaint alleging discrimination, harassment, or retaliation, or a failure to provide a religious accommodation;
 - (ix) A denial of a leave request, unless approval is required by law or the denial is a result of an incorrect calculation of leave balances by management;
 - (x) The placement of an employee in leave-without-pay status when the employee is absent without approval, or the employee is ineligible to use paid leave for the absence, or the employee does not have paid leave to cover the absence;
 - (xi) Any policy or section of a policy that specifically states it is not subject to a grievance action “not grievable”;
 - (xii) Any decision or action made, taken or authorized by the Chief Judge of the Court of Appeals, the Chief Judge of the District Court, or the State Court Administrator; or
 - (xiii) An employee’s resignation.

(8) Judiciary Human Resources Department (JHRD) – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (9) Management Representative** – An individual chosen by the Director of the JHRD, in consultation with management, to represent management in the grievance process.
- (10) Supervisor** – Any individual designated as a supervisor by the appropriate administrative head.
- (11) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (12) Work Day** – An employee’s normally scheduled work day.

(c) Policy Statement

This policy provides for the fair and impartial consideration and equitable disposition of grievances. All employees, supervisors, and management personnel are charged with the responsibility of making reasonable efforts to resolve any dispute informally and amicably, and without resorting to formal proceedings. An employee may present his or her grievance free from coercion, discrimination, interference, reprisal, or restraint.

(d) Grievance Procedures

(1) Informal Conference

- (A) An employee and his/her supervisor must, in good faith, confer to resolve the dispute. This informal conference period does not extend the deadline for filing a grievance.

(2) Filing a Grievance

(A) What to File

- (i) An employee who wishes to file a grievance must submit a grievance form to the Director of the JHRD. The employee may obtain the form from the employee’s administrative head, the JHRD, or the JHRD page on the Judiciary’s website at www.mdcourts.gov.
- (ii) The completed grievance form must state, specifically and definitively, any disputed facts or additional facts that support the grievance with sufficient detail to allow management to respond to each ground.
- (iii) The form shall state the specific remedy the employee seeks.
- (iv) The grievance form must contain the employee’s confirmation that the informal conference has taken place.

- (B) Where to File. The employee must file the completed grievance form with the employee Relations Office of the JHRD, whose contact information is:

Judiciary Human Resources Department
Attn: Employee Relations Office
580 Taylor Avenue, A-1
Annapolis, MD 21401

Fax number: (410) 260-1253
Email address: aoc.grievance@mdcourts.gov

(C) When to File

- (i) An employee who wishes to file a grievance must do so within seven work days after the dispute arises. The official filing date for grievances that an employee files by mail shall be the date postmarked. The official filing date for grievances filed by any other means shall be the date on which the Employee Relations Office of the JHRD receives the grievance form.
- (ii) Non-Compliance Constitutes Acceptance. Failure by the employee to file a grievance in compliance with this policy constitutes the employee's acceptance of the disciplinary action or other matter of dispute.

(D) Who May Assist

- (i) An employee may designate any one individual to act as an employee representative and assist and/or represent the employee in the grievance process and shall notify the JHRD of any such representative.
- (ii) The Director of the JHRD, in consultation with the administrative head, may designate any one individual to act as the management representative and assist and/or represent management in the grievance process.

(3) Initial JHRD Processing of a Grievance

- (A) If a grievance is not timely filed, the JHRD shall dismiss it unless the employee shows exceptional circumstances, as determined by the Director of the JHRD, for failing to meet the time limits. There is no appeal of a decision by the Director to dismiss a grievance for untimely submission.
- (B) If a grievance is timely but does not provide the information required in Section (d)(2)(A), then the Director of the JHRD may ask the employee to clarify such information within five work days or face dismissal of the grievance. Any such request for clarifying information shall not serve to expand the scope of the grievance. The Director may dismiss the grievance if this information is not submitted in the time provided.
- (C) A statement of grievance shall be returned to an employee if, upon review of the form, it is determined the requirement for informal conference has not been met.
- (D) If a grievance is filed in a proper and timely manner, then the Director of the JHRD shall:
 - (i) Set the date, time, and place for a fact-finding conference, which shall take place within 30 calendar days after JHRD's receipt of the employee's initial grievance form (if sufficiently specific) or supplemented grievance form (if the initial form was insufficiently specific);
 - (ii) Select a conference officer to preside over the fact-finding conference. When selecting the conference officer, special care should be taken to avoid a possible conflict of interest; and,
 - (iii) Promptly notify the employee, the employee's administrative head, the management representative, and the employee representative (if any, and if his or her contact

information is available to the JHRD) of the date, time, and place of the fact-finding conference, in writing or by email.

(4) Fact-Finding Conference

- (A) **Scope of Conference.** A fact-finding conference shall be limited to examining only the issues or matters the employee raised on the initial (or timely supplemented) grievance form that have not been resolved by informal conference. The conference officer shall not entertain any other issues or matters.
- (B) **Confidentiality and Attendance at the Conference**
 - (i) Conferences are confidential. As such, they shall be closed to the public. Attendance at the conference is restricted to the following:
 - (I) The employee;
 - (II) The employee representative (if any);
 - (III) The administrative head or his or her designee;
 - (IV) The management representative (if any);
 - (V) Witnesses; and
 - (VI) The Conference Officer.
 - (ii) Notwithstanding the above, the conference officer, at his or her discretion, may allow the attendance of a limited number of non-participating Judiciary managerial personnel for training purposes provided the employee and management have no objections.
- (C) **Preparation for Fact-Finding Conference**
 - (i) An employee shall be allowed up to four hours of work time to prepare for a fact-finding conference. An employee shall not suffer any loss of pay for time spent testifying at a fact-finding conference. No overtime will be paid, and no compensatory leave will be earned, in conjunction with preparing for a conference.
 - (ii) There shall be no written discovery (in the form of written questions, document requests, etc.) before the fact-finding conference.
- (D) **Role of the Conference Officer**
 - (i) **Factual Review Only**
 - (I) The conference officer is responsible for determining if the factual allegations on which the disciplinary action or other managerial action was based are true. If the facts as alleged are true, then the conference officer must find in favor of management, even if the conference officer might have imposed a different disciplinary action or made a different managerial decision. The conference officer shall not substitute his or her judgment for that of management by determining a different action would have been more appropriate based on his or her own sense of fairness. As long as the action is factually supported, then the conference officer cannot reverse it.
 - (II) If the conference officer determines the facts on which management's action was based are not true, then the conference officer must find in favor of the employee.

- (ii) The conference officer is authorized to rule on all procedural matters raised prior to and during the conference, to rule on all matters affecting the conduct of the conference, and to issue a written report on the findings and recommendation. The conference officer has the discretion to conduct the conference in any manner that will enable him/her to gather the facts needed for an informed finding and recommendation.
 - (iii) The conference officer, for good cause, and in consultation with the JHRD, or at the request of either party, may waive the time limits for holding a conference.
- (E) Conference Procedure
- (i) Failure by the employee to appear within 15 minutes of the starting time set for the fact-finding conference shall result in dismissal of the grievance. The dismissal will become final within three work days of the date of the conference unless, within that period, the employee shows good cause for failing to appear as determined by the conference officer. The conference will be rescheduled if the conference officer determines the employee had good cause for failing to appear. The decision of the conference officer is not grievable.
 - (ii) Opening statements by the parties are optional and, if given, should be brief.
 - (iii) Evidence may be presented, and witnesses may testify, on behalf of the employee and management. Witnesses shall be sequestered. The formal rules of evidence in Title 5 of the Maryland Rules do not apply, but the conference officer may consult them in determining how to decide a disputed question.
 - (iv) Closing arguments by the parties are optional, and, if made, should be brief.
- (F) Standard of Proof. The standard of proof in a fact-finding conference is a preponderance of the evidence. A preponderance of the evidence means to prove that something is more likely so than not. If the evidence is evenly balanced on an issue, then the finding on that issue must be against the party who has the burden of proof.
- (G) Burden of Proof. Management has the burden of proof if the grievance involves a disciplinary action. The employee has the burden of proof for all other grievances.

(5) Conference Officer's Written Report

- (A) The conference officer shall render a written report on his or her findings and recommendation to the State Court Administrator (for an employee who does not work in the District Court), the Chief Judge of the District Court (for an employee who works in the District Court) and the Director of the JHRD within 10 work days after the date of the conference.
- (B) The conference officer shall determine and state in the report whether the preponderance of the evidence supports the facts on which the grieved disciplinary action or other managerial action was based. The conference officer's report shall recommend upholding the grieved action if the preponderance of the evidence supports it and shall recommend not upholding the grieved action if the preponderance of the evidence does not support it.

- (C) The conference officer's findings and recommendation are not final and are not available to the parties. Only the Management Decision is final and available to the parties.

(6) Review of the Report and Final Decision

- (A) The State Court Administrator (for an employee who does not work in the District Court) or the Chief Judge of the District Court (for an employee who works in the District Court) shall render a final decision within 20 work days from receipt of the conference officer's report and notify the Director of the JHRD of the decision. The final decision may:
- (i) Adopt the conference officer's report in its entirety;
 - (ii) Reject the conference officer's report in its entirety;
 - (iii) Accept the conference officer's report in part and reject it in part; or,
 - (iv) Remand the matter to the conference officer for further proceedings if additional questions of fact need to be addressed. If the matter is remanded, a conference shall be held within 30 calendar days of the remand directive. The time periods set forth in this policy for rendering an initial decision shall apply to any subsequent decision on remand.
- (B) After reviewing the conference officer's report, the State Court Administrator (for an employee who does not work in the District Court), the Chief Judge of the District Court (for an employee who works in the District Court), may take whatever remedial action he or she deems appropriate if they conclude the management decision that was grieved was inconsistent with the facts or Judiciary policy.
- (C) The Director of the JHRD will notify in writing the employee, the employee's administrative head, and the employee representative and management representative of the final decision. The decision of the State Court Administrator or the Chief Judge of the District Court is final and not subject to further administrative review.

(e) Designees: The administrative head, Director of the JHRD, State Court Administrator, or the Chief Judge of the District Court may designate in writing any Judiciary employee to serve or act on his or her behalf in conjunction with this policy.

(f) Filing a Complaint when Discrimination is Alleged: An employee who believes that he or she has been discriminated against or retaliated against may file a complaint under the Judicial Branch Policy Prohibiting Discrimination, Harassment, and Retaliation.

(g) Mediation: Nothing in the policy prohibits the use of mediation services provided by the Judiciary, if agreed to by both parties.

(h) Effective Date: This policy applies to all grievances filed on or after July 1, 2017.

(i) Exceptions: The Chief Judge of the Court of Appeals and the State Court Administrator may make exceptions to this policy.

(j) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(k) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

3.4 POLICY ON PERFORMANCE APPRAISAL

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish a performance appraisal and review process for employees of the Maryland Judicial Branch of Government.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head**
 - (A) For the Appellate Courts, the Clerk of the Court for all employee under the Clerk's supervision;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employee under his or her supervision.
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Employee**, for purposes of this policy means: Any person employed by the Maryland Judicial Branch of Government and paid through the Central Payroll Bureau of the Comptroller, except judges, elected officials, employees of a Register of Wills Office, employees of an Orphans' Court, and at-will employees as defined in the Policy on At-Will Employment.
- (3) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (4) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

A performance appraisal process is an important component of the employer-employee relationship. Its primary goal is to encourage excellent performance and professional growth. It is essential the appraisal process be given proper attention. To that end, the process will include an in-person meeting with the employee to discuss his or her performance appraisal. There are three primary objectives in the performance appraisal process that are required:

- (1) To evaluate an employee's performance over a specific time period;
- (2) To provide constructive feedback to the employee on his or her performance; and
- (3) To establish future goals and objectives for the employee.

(d) The Appraisal Process and Rating Period

- (1) Employees should be formally evaluated for each calendar year, no later than April 30 of the following calendar year.
- (2) Although not required, an employee may be given an informal midyear appraisal. This will inform the employee of any performance areas needing improvement and it will provide the employee with direction and time to improve upon those areas prior to the end of the rating period. As this is an informal instructional communication, it is not included in the employee's personnel file and is not subject to a grievance action.
- (3) Employees who do not receive an overall performance rating of Meets Standards or above will not be eligible for a merit increase or Cost-of-Living-Increase (COLA) until such time they successfully complete a Performance Improvement Plan.
- (4) The Performance appraisal shall be transmitted to JHRD and will become part of the employee's official personnel file.

(e) Grievance Rights

Pursuant to the Policy on Grievances, an annual performance appraisal may not be grieved unless the Overall Rating does not meet the minimum performance standards for that position.

(f) Performance Improvement Plan

- (1) A Performance Improvement Plan (PIP) is intended to highlight performance areas that need improvement. Employees may not receive more than one PIP for each position held, unless the administrative head and the JHRD determine extraordinary circumstances exist.

- (2) A PIP shall be developed for any employee who receives an overall rating that does not meet the minimum performance standards for the position.

In addition to the reason for placing an employee on a PIP described above, an employee may be placed on a PIP when it is necessary to address any performance issue. The employee will be subject to the actions stated in Subsection (3) and (4) of this Section if he or she fails to meet the requirements of the PIP.

- (3) The PIP period will be no more than 90 calendar days during which the employee must improve his or her performance to a satisfactory level as determined by the administrative head. In consultation with the JHRD, the 90-day period may be extended due to an extended absence covered by the Family and Medical Leave Act.
- (4) The supervisor will meet with the employee at the end of the PIP period to discuss if the requirements of the PIP have been satisfied. If the requirements were not satisfied, then the employee shall be subject to demotion or termination of employment. It is not required, however, that the employee be demoted prior to termination of employment.
- (5) The supervisor may recommend that an employee be demoted or terminated before the end of the PIP period after consulting with the administrative head and JHRD, if they jointly determine the employee's performance is so deficient he or she cannot sufficiently improve by the conclusion of the PIP period.
- (6) A PIP does not prohibit an employee from being given a disciplinary action, including the termination of employment, for sufficient cause other than, or in addition to, failure to meet the requirements of a PIP.

(g) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(h) Exceptions: The Chief Judge of the Court of Appeals and the State Court Administrator may make exceptions to this policy.

(i) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

3.5 POLICY ON STANDARDS OF CONDUCT

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish standards of conduct to be followed by employees of the Maryland Judicial Branch of Government in the performance of their duties and in their interactions with other Judiciary personnel and the public.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges, magistrates, and commissioners.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or an Administrative Clerk or an Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Employee** – Any person employed by the Maryland Judicial Branch of Government and paid through the Central Payroll Bureau of the Comptroller, or employed by a unit, except judges, elected officials, and employees of a Register of Wills Office.
- (3) **Family Member** – For purposes of this policy, means:
 - (A) Spouse of the employee;
 - (B) Children, foster children, or stepchildren of the employee;
 - (C) Siblings of the employee;

- (D) Parents, stepparents, or guardians of the employee or spouse, or others in loco parentis;
- (E) Grandparents or step-grandparents of the employee or spouse; or,
- (F) Sons-in-law or daughters-in-law of the employee.

- (4) **Judicial Relief** – Any assistance, redress, or benefit which an employee or family member seeks at the hands of a court. This does not include seeking the ministerial assistance of a court in matters where no judgment or discretion is involved, such as marriages and recording of documents.
- (5) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (6) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (7) **Violence** – Includes, but is not limited to:
 - (A) Implied or explicit threats of any kind;
 - (B) Threatening, physically aggressive, or potentially injurious behavior, including but not limited to, intimidation, attempts to instill fear, or causing physical harm to another;
 - (C) Belligerent speech or excessive arguing;
 - (D) Intentionally defacing or sabotaging Judiciary property or equipment, or causing physical damage to Judiciary facilities;
 - (E) Possession of a firearm while on Judiciary property or while conducting Judiciary business, unless authorized to do so in the course of employment; or,
 - (F) Using any object in a threatening manner.

(c) Policy Statement

Every employee of the Maryland Judicial Branch of Government is considered to be an integral part of the administration of justice. Employees are expected to conduct themselves at all times in a manner that garners the public's trust and confidence and generally reflects positively on the Maryland Judiciary.

Employees must not engage in any activities, transactions, or interactions that are incompatible with the impartial, objective, and effective performance of their duties, or that adversely affect the Judiciary's interests or reputation.

These standards are established in order to maintain the highest degree of public confidence in the Judiciary.

(d) Standards of Conduct

- (1) Contact with the Public.** Employees represent the Judiciary in all of their contacts with the public. The impression they make affects the perception others will have of public service as a whole and the Judiciary in particular. When dealing with the public, an employee is expected to offer courtesy and patience at all times, even when dealing with persons who appear difficult or unreasonable, regardless of the provocation.
- (2) Contact with Judicial Branch Employees.** Judicial Branch employees are expected to treat each other in the same respectful manner in which they are expected to treat the public, regardless of position.
- (3) Contact with the Press.** In instances where a member of the press is seeking non-routine information from the Judiciary, the inquiry should be directed to the Division of Government Relations and Public Affairs. Routine information that may be provided includes basic customer service responses about a court case or court trial, copies of public documents readily available at the courthouse, or an explanation of a court process or procedure. All other media inquiries should be directed to the Division of Government Relations and Public Affairs for assistance.
- (4) Discussion of Judiciary Matters**

 - (A) At no time are employees, while on duty, to indicate to the public either agreement or disagreement with a judicial decision.
 - (B) Employees should avoid public or casual discussion of matters before the Judiciary which may cause embarrassment to individuals or reduce public confidence in the impartiality of justice. Specific judicial cases and names of persons before the Judiciary should not be discussed except in the official transaction of Judiciary business.
- (5) Gifts, Benefits, and Gratuities.** Employees may not, for personal gain or that of a friend, family member or acquaintance, seek or accept, directly or indirectly, any favor, service, gift, or benefit, including money, gratuity, fee, property, loan, promise, or anything else from, or on behalf of, any individual or entity who is doing or seeking to do business with the Judiciary. The acceptance of such gifts or benefits for such purpose is prohibited at all times.
- (6) Confidentiality.** Please refer to the Policy on Confidentiality.
- (7) Financial Interests**

 - (A) No employee shall have a monetary interest that conflicts with State Ethics Commission regulations. This also applies where the interest is held by the employee's spouse, child, or parent.

(B) Even if no conflict of interest is determined to exist, employees shall receive no favor or special concession or inducement not customarily available and granted by the state or local government in such a transaction.

(8) Referrals and Legal Advice. Employees, in their official capacity, shall not refer a customer to a particular private attorney or to a specific bail bonds person. With the exception of an employee in one of the Judiciary's self-help centers, employees, in their official capacity, are prohibited from providing legal advice to the public.

(9) Solicitation at the Workplace. The soliciting of alms, money, or contributions, commercial soliciting, the display or distribution of commercial advertising, or collection of private debts, is prohibited in the workplace.

(10) Political Activity. Employees are prohibited from engaging in political activities when:

- (A) The employee is on Judiciary premises;
- (B) The employee is off Judiciary premises if he/she is, at the time, engaged in the performance of his/her official duties;
- (C) The activity is a violation of law;
- (D) The employee is wearing a uniform or is in a vehicle that identifies him or her as a Maryland Judicial Branch of Government employee; or
- (E) The employee is using his or her official work title or status.

(11) Use of Influence of Position

- (A) Employees must avoid using or appearing to use the influence of their positions in personal, business, or professional dealings in which they are involved.
- (B) Employees may not perform their official duties in any court case or circumstance before the Judiciary in which they, a family member, friend, or coworker is a party without the prior knowledge and approval of the administrative head.
- (C) Employees shall not use information obtained in the course and scope of employment, including reports, records, files, or contacts with the public, for any purpose other than official business.
- (D) An employee should not permit or authorize use of his or her name, photograph, or official title which identifies the employee as a Maryland Judicial Branch of Government employee, or permit or authorize the name or logo of the Maryland Judiciary or any of its departments, units, or property to be used in connection with testimonials, contributions, or advertisements of any commodity or commercial enterprise without the approval of the State Court Administrator or the Chief Judge of the Court of Appeals.

(12) Promptness. The operation of the Judiciary is dependent upon all employees. It relies on their promptness in reporting for work and in providing their necessary service to the community. The administrative head will determine the work schedules for his or her organization that are best suited

to serve the needs of the public. Employees are expected to begin work at their official starting time and to return to work promptly from lunch and breaks.

(13) Judiciary Equipment and Miscellaneous Items.

- (A) Employees are issued the equipment necessary to perform their assigned duties and are liable for the equipment (phones, electronic devices, etc.). Equipment issued to employees is subject to monitoring by the Judiciary, and the information contained within is subject to Public Information Act requests. Employees are expected to take care of the equipment and to report any equipment theft, damage, or malfunctions to their supervisor.
- (B) Employees are provided with miscellaneous items that enable them to perform their duties or are necessary for the employees' comfort and convenience, or otherwise are present in the workplace for the benefit of employees or visitors, such as, but not limited to: clerical items; and kitchen and restroom products. These Judiciary-provided items are not to be removed from the premises for personal use at home or elsewhere.

(14) Reporting Employee Court Appearances, Arrests, and Requests for Judicial Relief. Employees are required to report to the administrative head an arrest, a court appearance, or a request for judicial relief for the employee within the next business day after becoming aware of the arrest, court appearance, or request for judicial relief, or as soon as practicable, but not later than five work days. Employees also must report instances in which they, in the performance of their job duties, are, or may become, directly involved in judicial matters involving a family member.

(15) Workplace Violence

- (A) Employees shall not engage in violence in the workplace. Such conduct places the safety and health of our employees, customers, and the public in jeopardy and will not be tolerated. Employees shall not engage in such conduct in the course of their employment, or while on state property, or while using state resources such as state time, office equipment, mail, email, or other means to commit or threaten to commit an act of violence.
- (B) An administrative head shall investigate all complaints or instances of violence in the workplace and take appropriate disciplinary action if warranted.

(16) Personal Appearance

- (A) Employees of the Maryland Judicial Branch are expected to maintain standards of personal grooming and present a clean, neat, professional appearance at all times. Based on job function, employees may be required to wear uniforms.
- (B) Employees should not wear clothing that is dirty, torn, faded, stained, frayed, or otherwise unacceptable in a professional office environment. In addition, tattoos and body art containing wording or images that may be offensive must be covered during working hours. Body piercings, except earrings and nose studs, must be covered during working hours. Employees shall not

exhibit extreme or unnatural hair colors, whether in whole, highlights, or streaks, such as, but not limited to: blue; green; orange; pink; purple; or any derivative colors in the same family of hues; or unnaturally bright or florescent colors of any shade.

- (C) An administrative head may enforce the standards for professional appearance established within this subsection, as well as those he or she determines are appropriate for the workplace.

(17) Unauthorized Recording of a Conversation or Meeting

In Maryland, recording a conversation between parties without the prior consent of the parties involved is a violation of the Courts and Judicial Proceedings Article, §10-402(b). Any person who violates this law is guilty of a felony and is subject to imprisonment for not more than 5 years or a fine of not more than \$10,000, or both. Therefore, employees are prohibited from recording conversations or meetings in the workplace without the consent of all parties involved. An employee is subject to the termination of employment for a violation of this section.

(18) Authority of Judiciary Special Police Officers/Bailiffs

Judiciary employees are expected to follow the directions, instructions, and orders given by Judiciary Special Police Officers (SPOs) and Bailiffs while in Judiciary buildings or on Judiciary property.

(e) Fitness for Duty Evaluations

When it is suspected that an employee's conduct, behavior, or performance constitutes a safety concern or hazard to individuals or property, or may prevent the employee from performing the essential job functions of the position, the employee may be required to submit to a medical evaluation to determine the employee's fitness for duty. The evaluation may be conducted by the State Medical Director or any other evaluator of the Judiciary's choosing. Such an evaluation will be coordinated with the JHRD.

(f) Employee Responsibilities

Employees must report to the administrative head any known or suspected job-related illegal activity committed by an employee during the course of employment. If the individual suspected of job-related illegal activity is the administrative head, then the employee shall report the suspected activity to the Director of the JHRD.

(g) Management Responsibilities

- (1)** Supervisors, managers, and administrative heads are expected to abide by the provisions of this policy, to impose appropriate disciplinary actions for violations of this policy, and to enforce its provisions fairly and with diligence.
- (2)** An administrative head must report to the Director of the JHRD, or designee, any suspected job-related illegal activity committed by an employee.

DEPARTMENT OF HUMAN RESOURCES

3.6 POLICY ON SUBSTANCE ABUSE

(a) Purpose and Scope

- (1) **Purpose.** To establish a uniform policy against substance abuse for Maryland Judicial Branch of Government employees and to establish uniform practices for the Maryland Judiciary to enforce this policy.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all employees under his or her supervision, in the Circuit Court where the employee works;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Alcohol** – Any form of ethanol, or any beverage or substance containing ethanol.
- (3) **Controlled Substance** – Any substance controlled under the Federal Controlled Substances Act (CSA), 21 U.S.C. § 801, et seq., as amended, and/or the Maryland Controlled Dangerous Substances Act, Md. Code Ann., Crim. Law §§ 5-101 through 5-1101.

- (4) **Drug** – Any controlled substance, non-prescription drug, or prescription drug, taken into the body, which may impair one’s mental faculties and/or change one’s mood and/or physical performance.
- (5) **Employee** – All employees of the state of Maryland Judiciary, excluding judges of the Orphans’ Courts, Registers of Wills and employees in the Registers of Wills’ offices. This definition also includes employees of units of the Judiciary.
- (6) **Impaired** – Reduced cognitive or physical ability that results from use of drugs, alcohol, or controlled substances.
- (7) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (8) **Judiciary Premises/Property** – Includes Judiciary-owned or Judiciary-leased property, parking lots, and storage areas. The term also includes Judiciary-owned or Judiciary-leased vehicles and equipment wherever located.
- (9) **Non-Prescription Drug** – Any over-the-counter drug that is available without a written prescription by an authorized medical professional.
- (10) **Prescription Drug** – A drug that is legally available only by means of prescription by an authorized medical professional.
- (11) **Substance Abuse**
- (A) Use of any illegal drug;
 - (B) Intentional misuse of any legal drug that results in impaired job performance;
 - (C) Use of any prescription drug in a manner inconsistent with its medically prescribed, intended use, or under circumstances where use is not permitted; and/or,
 - (D) Being under the influence of alcohol in a way that results in impaired job performance, or using alcohol during work time, or while in or on Judiciary premises/property
- (12) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (13) **Work Day** – An employee’s normally scheduled work day.
- (14) **Work Time** – For purposes of this policy, time during which an employee:
- (A) Is on duty, whether at the employee’s principal work site or at an alternate work site; and/or,
 - (B) With the requisite approval, travels to and from and participates in training activities, conferences, conventions, and seminars as a job requirement. Approved time spent traveling to

and from the event outside the employee's normal work and commuting schedule will count as hours worked.

(c) Policy Statement

The Maryland Judicial Branch recognizes that substance abuse is a serious national crisis that has had a detrimental effect on the lives of many of our citizens and has exerted a negative effect on the operation of business and government. The Maryland Judicial Branch further recognizes that every employer, including the Maryland Judiciary, experiences a loss in productivity due to substance abuse-related absenteeism, injuries on the job, decreased work quality, and wasted resources. Substance-abusing employees may function below established standards, may make impaired decisions, may have negative effects on their co-workers, and may not be alert. The Maryland Judicial Branch is committed to a substance abuse-free workplace.

(d) Prohibited Conduct

- (1)** Substance abuse by any employee on or in Judiciary premises/property is forbidden at all times.
- (2)** Substance abuse by any employee during work time is forbidden, whether or not on or in Judiciary premises/property.
- (3)** Employees are prohibited from unlawfully manufacturing, distributing, dispensing, possessing, or using a controlled substance, or committing alcohol-related offenses, whether or not on the job.
- (4)** Employee must not report to work, or spend any work time, in an unfit condition to perform their duties. Reporting to work, or spending any work time, with mental or physical abilities impaired by drugs or alcohol, is a violation of this policy and shall subject employee to disciplinary action.
- (5)** Employees on official business, whether or not on or in Judiciary premises/property, are prohibited from purchasing, transferring, using, or possessing illegal drugs, or from abusing alcohol or using any drug in any way that is illegal.

(e) Enforcement

- (1)** Where justified by reliable information and/or observation, criminal violations shall be referred to the appropriate law enforcement authority for further investigation and prosecution.
- (2)** Employees must report any drug-related or alcohol-related arrest to their supervisor within the next business day, or as soon as practicable, but no later than five work days after that arrest. Any such arrest may be cause for an administrative investigation, notwithstanding the status or outcome of any related legal proceedings.
- (3)** Employees convicted of off-the-job drug-related or alcohol-related offenses will be in violation of this policy.

- (4) Any employee found to be in violation of any of the provisions of this policy shall be subject to disciplinary and other lawful sanctions.
- (5) Supervisory employees are responsible for adherence to and implementation, enforcement, and monitoring of this policy.
- (6) Observation of any signs of possible substance abuse in any employee during work time constitutes reasonable grounds for investigation by the employee's supervisor and/or administrative head, and for non-supervisory employees' reporting of such observed signs for such investigation. A supervisor and/or administrative head, on observing such signs or receiving a report of them, in consultation with the JHRD, or the individual responsible for Human Resources for locally-funded employees, should investigate by appropriate measures, including direct observation and private questioning of the affected employee(s) if possible. Such signs of possible substance abuse include, but are not limited to:
 - (A) The odor of alcohol or drugs;
 - (B) Slurred and/or incoherent speech;
 - (C) Decreased motor coordination and/or other impaired physical behavior;
 - (D) Marked changes in personality and/or job performance;
 - (E) Bloodshot eyes or abnormally dilated or constricted pupils; and/or
 - (F) Any combination of the above.
- (7) If the supervisory investigation supports a conclusion of substance abuse by the investigated employee(s), the supervisor and/or administrative head shall consult with the JHRD, or the individual responsible for Human Resources for locally-funded employees, regarding appropriate next steps, which may include testing.

(f) Assistance and Treatment

- (1) An employee may request referral to the Employee Assistance Program (EAP) for access to confidential professional assistance for substance abuse problems.
- (2) Employees will not be terminated solely for requesting referral to the EAP or voluntarily obtaining other assistance and/or treatment for a substance abuse problem. The Judiciary encourages any employee who needs such assistance and treatment to seek and obtain it. However, participation in a treatment or recovery program will neither relieve employees from the requirement of satisfactory job performance, nor insulate them from termination or adverse management actions for failing to comply with any of the Judiciary's policies and procedures.
- (3) Substance abuse-related disciplinary actions, up to and including termination, may be, but do not have to be, held in abeyance pending an employee's completion of an assistance and treatment program. The option of holding a disciplinary action in abeyance is not an employee entitlement or right but is a privilege to be granted at the discretion of the administrative head, in consultation with

JHRD or the individual responsible for Human Resources for locally-funded employees, under appropriate circumstances.

(g) Exceptions: The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

(h) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(i) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

3.7 POLICY ON WHISTLEBLOWER PROTECTIONS

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish whistleblower protections for employees of the Maryland Judiciary.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) applicants for employment;
 - (ii) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (iii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all employees under his or her supervision, in the Circuit Court where the employee works;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Employee** – Any person employed by the Maryland Judicial Branch of Government and paid through the Central Payroll Bureau of the Comptroller, or employed by a unit, except judges, elected officials, and employees of a Register of Wills Office.
- (3) **Grievance** – An employee's written complaint as defined in the Judiciary Policy on Grievances.
- (4) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human

resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (5) **Supervisor** – Any individual designated as a supervisor by the appropriate administrative head.
- (6) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

The Maryland Judiciary is opposed to acts of retaliation taken against employees who disclose information as stated in Section (d)(1) on the part of any member of the Maryland Judiciary. This policy provides protections for employees who disclose such information.

(d) Whistleblower Protection

- (1) **Reprisal Prohibited.** A supervisor or administrative head may not take or refuse to take any personnel action as a reprisal against an employee solely because the employee discloses information that the employee reasonably believes evidences:
 - (A) An abuse of authority;
 - (B) Gross mismanagement;
 - (C) A substantial and specific danger to the public health or safety; or,
 - (D) A violation of law.
- (2) **Redress for Alleged Reprisal.** An employee who believes he or she has suffered reprisal in violation of this policy may file a grievance pursuant to the procedures established in the Judiciary Policy on Grievances.

(e) **Effective Date:** This policy applies to all requests for redress under Section (d)(2) initiated on or after July 1, 2017.

(f) **Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.

(g) **Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

4.1 POLICY ON ALTERNATIVE WORK SCHEDULES

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to provide more flexibility for establishing employee work hours which are in the best interest of the Judiciary. Employees may request but are not guaranteed an alternative work schedule.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges and commissioners.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts, the State Court Administrator;
 - (E) For units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Alternative Work Schedule (AWS)** – A work schedule that allows an employee to work a compressed work week, or flexible work hours as defined by this policy.
- (3) **Compressed Work Week** – A work week of fewer than five days in a seven-day period (Wednesday through the following Tuesday) or fewer than 10 days in a 14-day pay period. The following four options for a compressed work week may be available at the administrative head's discretion. The employee's days off are according to a fixed schedule:
 - (A) An employee may work four 10-hour days in a work week to equal 40 hours.

- (B) An employee may work four nine-hour days and one four-hour day in a work week to equal 40 hours.
- (C) An employee may work four 10-hour days in a work week followed by a work week of five eight-hour days for a total of 80 hours per pay period.
- (D) An exempt¹ employee may work four nine-hour days and one eight-hour day in a work week to equal 44 hours followed by a work week of four nine-hour days equal to 36 hours for a total of 80 hours per pay period.

- (4) **Core Hours** – The scheduled hours of the AWS work day during which all employees must be present at work. Core hours established under this policy for employees working the day shift are 9:00 a.m. to 3:30 p.m.
- (5) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (6) **Regular Work Schedule** – Five eight-hour days (40 hours) in a work week.
- (7) **Work Week** – A work week is Wednesday through the following Tuesday.
- (8) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

The Maryland Judiciary strives to provide its employees work/life balance opportunities that enhance the work environment, resulting in operational effectiveness.

An AWS is a work/life balance initiative that is a privilege and not a right. The administrative head may, at his or her discretion and at any time and for any reason, choose to implement or to discontinue an AWS agreement for an employee or all employees under his or her authority. The administrative head should be cognizant that courthouses and other facilities of the Judicial Branch shall be open for operations no later than 8:00 AM and shall close no earlier than 5:00 PM every day the courts are open.

(d) Approving Authority: The administrative head will have the final authority for approval, disapproval, modification, and/or termination of an employee’s AWS agreement.

¹ Federal Law requires that employees in positions subject to the overtime provisions of the Fair Labor Standards Act (otherwise known as nonexempt employees under the FLSA) be compensated at time and one-half (in cash or leave) **for all hours worked in excess of 40 in a given work week**. Employees in such nonexempt positions are, therefore, ineligible to participate in an AWS that allows over 40 hours of work in a work week.

(e) Conditions of AWS

- (1) The respective administrative head has the discretion to determine whether to allow AWS in his or her court, unit, department, or office, and to determine which work schedule options under this plan will be made available to employees based on an assessment of operational needs.
- (2) Staff coverage sufficient to meet the operating requirements of the departments shall be maintained at all times.
- (3) All employees on an AWS must be present at work during the core hours on a full work day.
- (4) No employee may schedule his or her work time to begin before 7:00 a.m. or end after 6:00 p.m. unless required and/or authorized by the administrative head, due to operational needs.
- (5) Management must be able to effectively supervise an employee during all hours of an employee's AWS, as determined by the administrative head.
- (6) Employee participation in the AWS Program is strictly voluntary.
- (7) An AWS agreement is for no more than one year. The administrative head will review the agreement at least annually to determine whether the employee may continue on an AWS.
- (8) An employee cannot simultaneously have an AWS and a Telework agreement. If an employee has a telework agreement, then he or she is not allowed to have an AWS.

(f) Request for AWS

- (1) **Employee Responsibility.** An employee may request an AWS by completing the AWS form and submitting it to his or her immediate supervisor for review. The administrative head has the discretion to approve or deny a request for an AWS.
- (2) **Management Responsibility**
 - (A) Management must ensure sufficient office coverage prior to approving individual AWS plans for employees. In order to maintain appropriate coverage during peak periods and vacations, management may request employees to revert to a regular work schedule.
 - (B) If an AWS option available to employees is not meeting operational needs, then management has the discretion to make other options under this policy available under a short term or long term basis. Management must provide employees with two weeks written notice prior to the change whenever possible.
 - (C) At any time, any employee's AWS may be rescinded at the discretion of the administrative head. A two-week written notice will be provided to the affected employee, except in situations that require immediate action. Any employee who abuses the privileges of this program or exhibits deficiencies in performance, conduct, or attendance will be returned to a regular schedule.

- (3) The administrative head shall forward a copy of an employee’s approved AWS form to the JHRD who shall keep a record of employees who are working an AWS.

(g) Leave Benefits

Annual and sick leave benefits will accrue at the same rate as for an employee on a regular work schedule. Leave benefits (sick, compensatory, annual, and personal) shall be expended on an hour-for-hour basis equal to the number of hours used during a scheduled work period. For example, if an employee has selected a compressed work week and is scheduled to work 10 hours on a day he or she requests to take leave for the entire day, then 10 hours will be charged against accumulated leave for that day.

Paid time off for holidays will be eight hours, the equivalent number of hours as provided for by a regular work schedule. For any given holiday, the excess of an employee’s scheduled work day over eight hours must be charged to accrued personal, annual or compensatory leave. For example, an employee working a four-day, 10-hour per day schedule would record eight hours holiday leave and two hours of other accumulated leave. If a holiday falls on a day which the employee is not scheduled to work as a result of an AWS, then the employee will be granted eight hours of compensatory leave at straight time.

- (h) Release Procedures:** In the event there is a need for employees to be released early, to delay opening, or to close for the full day, the established release procedures will be followed.

- (i) Policy Not Subject to Grievance Action:** The approval, denial, modification, or termination of an AWS Agreement is not subject to a grievance action.

- (j) Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

- (k) Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.

- (l) Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

4.2 POLICY ON EDUCATIONAL ASSISTANCE

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish uniform practices for providing educational assistance for regular employees of the Maryland Judicial Branch of Government.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his/her supervision;
 - (C) The Chief Judge of the District Court for employees of that Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (3) **Regular Employee** – Any person holding a budgeted position paid through the Central Payroll Bureau of the Comptroller, not including elected officials, employees of a Register of Wills Office, contractual and temporary positions, and those held by judges, magistrates, and law clerks.

- (4) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

Recognizing the mutual benefits derived from professional growth, the Judiciary may provide educational assistance to eligible regular employees interested in furthering their formal education through specific courses, or a certification or degree program. Administrative leave will not be granted for this purpose. The regular employee must not allow participation in an educational program to interfere with the performance of job duties and responsibilities. An alternate work schedule, if needed, may be arranged with the approval of the regular employee's administrative head. The educational assistance program will provide an eligible regular employee an allowance per fiscal year for tuition and additional related costs.

An educational program must provide for the professional development of the regular employee and bear a relationship to the regular employee's current or anticipated future duties within the Judiciary. The program may be taken through an accredited college or university, technical or business institution, or Board of Education. Offerings through other organizations also may meet approval.

Although completion of a course, degree, or certification program provides an improved educational background, this accomplishment does not obligate the Judiciary to reward such completion with a promotion, transfer, reassignment, salary increase, or other professional benefit.

(d) Eligibility Requirement

Regular full-time regular employees, and regular part-time regular employees who have successfully completed the initial probationary period are eligible to apply for educational assistance on a pro-rata basis.

A regular employee must maintain job performance at the "meets standards" level or above, before and during participation.

(e) Application

- (1)** Eligible regular employees who are interested in seeking educational assistance must complete an Application for Educational Assistance form. The form is to be submitted to the administrative head for processing at least 15 business days prior to the registration date for the course.
- (2)** The eligible regular employee must notify the administrative head of any career goal or plan, including any specific academic degree or certification.
- (3)** The administrative head, after reviewing and approving the application, shall submit it to the Judicial College.

- (4) The Judicial College will review and either approve or deny the application and notify the administrative head.

(f) Reimbursement Limits

The State Court Administrator will establish a reimbursement limit for this program, per fiscal year. A regular employee may be reimbursed for the cost of tuition, required textbooks, and related fees, such as registration, laboratory, activity, student, and/or facility fees for approved courses, up to the established limit. Excluded from reimbursement are late fees, interest on delayed payment plans, parking fees, medical service, health or physical fees, or any other fee not deemed to be reimbursable. Any portion of tuition and/or related fees covered by other sources, such as Veteran Education Benefits, scholarships, and grants will not be reimbursable. It is the Judiciary's policy to follow all applicable Internal Revenue Service regulations regarding educational assistance.

Contact the Judicial College or visit the Judiciary's website for information on the current reimbursement limit for the fiscal year.

(g) Reimbursement

Within 30 days of being notified that the regular employee has successfully completed a course or certification program, the regular employee must submit a completed Tuition Reimbursement Request form, to include:

- (1) The original copy of the grade or completion report from the educational institution that shows the regular employee has met the grade or completion requirements as indicated below.
 - (A) Non-College Course – pass or certificate of successful completion;
 - (B) Undergraduate Course - grade of C or better;
 - (C) Graduate or Post Graduate Course - grade of B or better; and,
 - (D) Certification Program – certificate of completion.
- (2) The original receipt(s) from the educational institution for tuition, textbooks, and other related fees paid by the regular employee up to the allowance per eligible regular employee per fiscal year.
- (3) The regular employee must send the required information to the Judicial College for reimbursement.
- (4) The regular employee must be employed by the Judiciary at the time the course is completed to be eligible for reimbursement.

(h) Employee's Responsibility

- (1) After successful completion of an approved course or certification, the regular employee must meet the conditions described in Section (g) to obtain reimbursement.

- (2) The regular employee must agree to continue employment with the Judiciary for a minimum of 12 months following the completion of the last successfully completed course or certification. The regular employee is to immediately refund the Judiciary for reimbursements for a course if the regular employee fails to meet this requirement due to either a voluntary or involuntary termination of employment, with the exception of a reduction in force.
- (i) **Judicial College Responsibility:** The Judicial College is responsible for the overall administration of this policy.
- (j) **Modification, Suspension, or Termination of Policy:** This policy may be modified, suspended, or terminated at any time due to budgetary constraints or other sufficient reasons as determined by the Chief Judge of the Court of Appeals or the State Court Administrator.
- (k) **Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.
- (l) **Interpretive Authority:** The Judicial College is responsible for the interpretation of this policy.
- (m) **Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers, with the exception of the regular employee responsibilities in Section (h)(2).

DEPARTMENT OF HUMAN RESOURCES

4.3 POLICY ON FAMILY AND MEDICAL LEAVE ACT

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish uniform practices for the administration of leave from work for employees under the Family and Medical Leave Act.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges and commissioners.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
 - (C) The Chief Judge of the District Court for employees of that Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Child** – Biological child, adopted child, foster child, stepchild, or child of a person standing in loco parentis.
- (3) **Health Care Provider:**
 - (A) A doctor-of-medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;
 - (B) A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor authorized to practice in any state and performing within the scope of his or her practice as defined under that state's law;

- (C) A nurse practitioner, physician’s assistant, nurse-midwife, or clinical social worker who is authorized to practice under any state’s law and who is performing within the scope of his or her practice as defined under that state’s law;
- (D) A Christian Science practitioner listed with the First Church of Christ Scientist in Boston, Massachusetts;
- (E) Any health care provider from whom an employer or a group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits;
- (F) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; and,
- (G) For non-FMLA purposes, any health care provider accepted by the State Court Administrator.

(4) Judiciary Human Resources Department (JHRD) – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

(5) Military Caregiver Leave – Leave allowing a covered spouse, child, parent, or nearest blood relative of a current service member in the Regular Armed Forces, National Guard or Reserves, or a veteran, to use up to 26 weeks to care for the current service member who has incurred a serious injury or illness in the line of duty while on active duty, or to care for a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that was incurred or aggravated in the line of duty while on active duty at any time during the five years preceding the date of treatment and that manifested itself before, or after the member became a veteran.

(6) Military Exigency Leave – Leave allowing a covered spouse, parent, or child of an active duty service member or current member of the National Guard or Reserves to take up to 12 weeks of leave due to a qualifying exigency resulting from the covered family member’s active military duty or federal call to active duty status in support of a contingency operation. It includes non-medical, non-routine activities such as:

- (A) Short-notice deployment activities;
- (B) Military events and related activities;
- (C) Childcare and school activities;
- (D) Financial and legal arrangements;
- (E) Counseling;
- (F) Rest and recuperation;
- (G) Post-deployment activities; and,
- (H) Additional activities.

(7) Overtime – For purposes of this policy, the number of hours worked that are beyond the employee’s normal work schedule.

- (8) Parent** – Biological parent, adoptive parent, foster parent, stepparent, or person standing in loco parentis to a child.
- (9) Serious Health Condition** – For FMLA purposes means an illness, injury, impairment, or physical or mental condition that involves:
- (A) Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility including any period of incapacity, or any subsequent treatment in connection with such inpatient care; or,
 - (B) Continuing treatment by a health care provider for a serious health condition which involves any one or more of the following:
 - (i) A period of incapacity (i.e. an inability to work) of more than three full consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:
 - (I) Treatment two or more times by a health care provider or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or
 - (II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the health care provider’s supervision. (Please note that a regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercises, and other similar activities that can be initiated without visits to a health care provider is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.);
 - (ii) Any period of absence or incapacity due to pregnancy, or for prenatal care (the father or partner may not use FMLA for prenatal care if not married to the mother);
 - (iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition which:
 - (I) Requires periodic visits for treatment by a health care provider and,
 - (II) Continues over an extended period of time (including recurring episodes of a single underlying condition); and,
 - (III) May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, migraines, etc.);
 - (iv) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. (The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.);
 - (v) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis);

- (vi) Treatment, including but not limited to examinations, to determine if a serious health condition exists, and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

(10) Unit – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Duration

With the exception for reasons described in Subsection (4)(D) below, the FMLA provides a 12-week period of paid or unpaid protected absence per “rolling” 12-month period for a serious health condition of the employee and certain family members of the employee. For FMLA purposes, if an employee’s normal work week consists of 40 hours, then a “week” equals 40 hours. If an employee’s normal work week consists of 25 hours, then a “week” equals 25 hours; and so forth. A Judiciary employee is required to use paid leave concurrently with a FMLA covered absence if such leave is available to the employee, to include annual, compensatory, personal, and sick leave, or any other paid leave that is available to the employee.

(d) Calculation

A “rolling” 12-month period shall be used to calculate an employee’s FMLA entitlement. Under the “rolling” 12-month period, each time an employee takes FMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

(e) Compliance with Policy Required

An employee using paid leave during a FMLA absence must comply with the requirements of this policy. If an employee exhausts all paid leave while on a FMLA covered absence, then the employee will be placed in a leave-without-pay status.

(f) Qualifying Reasons for Protected Absence

The FMLA provides an employee with a protected absence for:

- (1)** The birth of a child and to care for the newborn, or the placement of a child for adoption or foster care with the employee;
- (2)** To care for the employee’s spouse, parent, or child under age 18, or an adult child who is incapable of self-care due to a disability as defined by the Americans with Disabilities Act (ADA);

- (3) The employee's own serious health condition that prevents the employee from performing his or her job functions;
- (4) Military Caregiver Leave (in the case of care-giver leave, an employee may be eligible for a protected absence of up to 26 weeks): and,
- (5) Military Exigency Leave.

(g) Additional Qualifying Requirements

To qualify under the FMLA, in addition to there being a qualifying reason:

- (1) The employee must have worked at least a total of 12 months for the state of Maryland. The time of employment may be separated by a break in service as long as the amount of time worked totals at least 12 months. While the 12 months of employment need not be consecutive, employment prior to a break in service of seven years or more need not be counted unless the break is occasioned by the employee's fulfillment of his or her military obligation.
- (2) The employee must have worked at least 1,250 hours during the preceding 12 months. Overtime hours worked are included when calculating the 1,250-hour requirement. Paid or unpaid absences from work are not included when calculating the 1,250 hours worked.
- (3) JHRD shall determine whether the employee has worked the required number of hours by calculating from the date the absence is scheduled to begin. For example, if the employee requests a FMLA absence before becoming eligible but will have worked the required number of hours by the time the absence is scheduled to begin, the employee shall be deemed to have satisfied the required number of hours. JHRD, when responding to FMLA requests, must check the employee's personnel and leave records to determine whether these requirements have been met. FMLA absence may not be denied on these grounds unless the records clearly indicate the employee has not worked a total of at least 12 months and at least 1,250 hours during the preceding 12 months. If there is no documentation to support these conclusions, the employee is entitled to the FMLA absence.

(h) Intermittent Leave and Reduced Schedules

- (1) Employees needing intermittent leave or a reduced schedule under the FMLA must attempt to schedule their leave so as not to disrupt the Judiciary's operations. In addition, while the employee is on an intermittent or reduced schedule, the administrative head may transfer the employee to an alternative position that better accommodates the leave or reduced schedule, and which has equivalent pay and benefits.
- (2) FMLA absences to care for an eligible family member with a serious health condition or because of the employee's own serious health condition may be taken intermittently or on a reduced work schedule only when medically necessary as determined by a health care provider.

- (3) The provisions of the FMLA permit employees to take time off intermittently, or on a reduced schedule after the birth of the employee's child, or for adoption or foster care placement of a child, only if the employee and employer agree to such an arrangement. The Judiciary agrees to approve such requests, provided: (1) the employee submits at the time of the birth, adoption, or placement, a complete plan for the time off requested; and, (2) the employee's administrative head approves a schedule of the requested intermittent leave.

(i) No Loss of Accrued Benefits During a FMLA Absence

- (1) Employees absent on FMLA do not lose "employment benefits" accrued prior to their FMLA absence. The term "employment benefits" is broadly defined to include retirement, health, disability, and life insurance, regardless of whether such benefits are provided by practice or written policy of the employer. Furthermore, commendations, bonuses, and awards for perfect attendance may not be jeopardized by a FMLA absence. During an unpaid FMLA absence, the employee must continue to receive group health coverage on the same terms and conditions as an employee not on a FMLA absence. If the leave is unpaid, the employee will be billed for his or her portion of the premium. The health care coverage may cease if the premium payment is not paid in a timely manner.
- (2) When an employee is using paid leave concurrently with a FMLA absence, the employee is entitled to the accrual of any seniority or employment benefits an employee who remained continuously at work would have received, *e.g.* earning of annual and sick leave, payment for a holiday when it occurs, earning of seniority credit, etc.
- (3) An employee is not entitled to the accrual of any seniority or leave benefits while in unpaid status.
- (4) An employee on paid or unpaid leave during a FMLA absence is not entitled to any greater rights than an employee who remained continuously at work.

(j) Job Restoration Upon Return from FMLA Absence

- (1) An employee who is on a FMLA absence and is now able to return to work, must be restored to the same or an equivalent job held at the time the absence began. An "equivalent" position is one with equivalent benefits, pay, and other terms and conditions of employment. An equivalent position must ordinarily be on the same shift or equivalent work schedule as the position held by the employee prior to the FMLA absence, and it must be in a geographically proximate work site.
- (2) An administrative head who eliminates the job of an employee who takes a FMLA absence must show that the elimination was due to business necessity.
- (3) When a FMLA absence of more than three days occurs due to the employee's own serious health condition, the employee is required, prior to returning to work, to provide medical certification from a health care provider indicating the employee is now able to resume work. Any requirement for a fitness for work certification must be job-related, consistent with business necessity, and may be

required only with regards to the medical condition that caused the need for the FMLA absence. The Judiciary may not require second or third fitness for duty certifications.

(k) Notice Requirements

- (1)** The FMLA requires the employee to provide at least a 30-day notice when an absence is foreseeable. As a general rule, 30-day notice is expected in cases involving the birth, foster care, or adoption of a child or planned medical treatment for an employee or an employee's family member's serious health condition, or the planned medical treatment for a serious injury or illness of a covered servicemember. In those cases when a 30-day notice is not practical, or the need for leave is not foreseeable, an employee must provide notice as soon as practicable under the facts and circumstances of the particular case.
- (2)** If the foreseeable leave is due to a qualifying military exigency, an employee is required to give notice as soon as practicable.
- (3)** Absent unusual circumstances, employees must follow the usual and customary call-in procedure for reporting an absence, including any requirement to contact a specific individual.
- (4)** If an employee fails to give a 30-day notice when the need for a FMLA absence is foreseeable, fails to give notice as soon as practicable, or fails to follow the usual and customary call-in procedures, the JHRD may deny designating the absence as FMLA or delay designating the absence as FMLA until a reasonable time has passed after the notice. If an employee is unable to give advanced notice because the need was not foreseeable, but gives notice after returning to work, the time off may be treated as a FMLA absence.
- (5)** In situations where the employee cannot reasonably be expected to request the leave personally, a family member (ex. spouse, parent, child of majority age), or legal designee of the employee, should make the request.
- (6)** This policy shall constitute notice of the FMLA's notice requirements.

(l) Documentation Requirements for Adoption and Foster Care

If an employee requests a FMLA absence because of the placement of a child for adoption or foster care with the employee, then the employee must provide documentation of the placement of the child with the employee.

(m) Documentation Requirements for Serious Health Condition – Medical Certification Required

- (1)** The employee must provide JHRD with medical certification of a serious health condition.

- (2) An employee requesting a FMLA absence for the illness of a family member or the employee's own serious illness shall be provided a "Certification of health care provider for employee's serious health condition" or "Certification of health care provider for family member's serious health condition" as soon as a request for a FMLA absence is submitted, or within two business days, if possible. An employee may provide a medical certification from any health care provider as defined in this policy. Information on the provider's letterhead is acceptable in lieu of the certification forms.
- (3) The employee must provide the medical certification within 15 calendar days after the request unless it is not practicable. The certification shall include:
 - (A) Medical facts supporting certification;
 - (B) Date of commencement and duration of absence;
 - (C) Additional treatments required or needed for intermittent time off; and,
 - (D) Ability of employee to perform essential functions of job.
- (4) If the employee does not provide the required medical certification, then, at the JHRD's discretion, the FMLA absence may be approved or denied based upon existing documentation and information.

(n) Recertification of Serious Health Condition

- (1) The employee must furnish recertification for absences due to a serious health condition once every 30 calendar days unless the minimum duration of the period of incapacity specified on the most recent medical certification is more than 30 days. For example, if the most recent certification states the period of incapacity is six to eight weeks, then the employee would furnish recertification at six weeks duration.
- (2) An employee may not be required to provide recertification more than once every 30 calendar days while on a FMLA absence, except in the following cases:
 - (A) The employee requests an extension of leave;
 - (B) Circumstances described by the previous certification have significantly changed, e.g., the frequency or duration of the illness, the nature of the illness or complications; or,
 - (C) The employer receives information, or there is a pattern of absences, that casts doubt upon the validity of the certification.
- (3) For medical conditions that are chronic but not necessarily life-long conditions (such as, but not limited to, high blood pressure, migraines, diabetes, sciatica, etc.) then it will be sufficient to recertify on a yearly basis.
- (4) For a medical condition that is considered by the medical community to be a life-long condition (such as, but not limited to, Parkinson's Disease, Lou Gehrig's Disease, Multiple Sclerosis, etc.), the FMLA designation may be considered permanent and recertification may be deemed unnecessary.

(o) Notice of Changed Circumstances

If the employee needs to extend the FMLA absence, or if the absence as originally requested is no longer necessary, an employee shall, if the changed circumstances are foreseeable, provide notice within two business days of when the employee became aware of the necessity for the change.

(p) Other Work Prohibited

An employee, while on a FMLA absence for his or her own serious health condition, may not engage in other employment. An employee, while on a FMLA absence for a family member's serious health condition, may not engage in other employment during the employee's normal Judiciary work hours.

(q) Employer's Obligations

- (1)** As soon as an administrative head (or anyone acting on his or her behalf) gains knowledge of a qualifying condition or that an employee's request for time off may qualify under the FMLA, the administrative head must notify the JHRD. (An employee's request for time off does not have to specifically refer to the FMLA.) The JHRD will give the employee written notice that shall include the following:
 - (A) Notice that time off that is related to the qualifying event shall be counted against the employee's annual FMLA entitlement;
 - (B) The requirements for medical certification to substantiate a serious health condition, and any consequences for failing to do so;
 - (C) The requirement that the employee must use paid leave if it is available;
 - (D) Any requirement for the employee to pay health insurance premiums and the consequences of failing to make payments;
 - (E) Any requirement that the employee present a fitness for duty certificate to be reinstated;
 - (F) Notice of the employee's right to receive the same or an equivalent job after returning from a FMLA absence; and,
 - (G) Notice of the employee's potential liability for health insurance premiums paid by the employer during the unpaid FMLA absence if the employee fails to return to work after the absence.
 - (H) If the employee is not eligible, the JHRD will provide to the employee written notice detailing the reason(s) for denial.
- (2)** The JHRD shall provide an employee who requests a FMLA absence with the following forms:
 - (A) Certification of health care provider for employee's serious health condition;
 - (B) Certification of health care provider for family member's serious health condition;
 - (C) Certification of Qualifying Exigency for Military Family Leave; or,
 - (D) Certification for Serious Injury or Illness of a Covered Service Member, for Military Family Leave.
- (3)** When properly completed, these forms provide the information required to determine whether the condition qualifies for FMLA. Failure by the employee to provide required certification within 15 calendar days of the employee's request for FMLA absence may result in the denial of leave until appropriate certification is provided.

- (4) The JHRD is responsible for evaluating available information to determine whether an employee's condition and/or absence is covered under the FMLA. The determination must be made within five business days of receiving the request if possible. It is important for administrative heads and/or supervisors to cooperate with and inform the JHRD as quickly as possible to ensure compliance with this time limit. The JHRD must act quickly to gather necessary information by:
- (A) Asking appropriate questions about the reasons for the employee's absence;
 - (B) Recognizing the absence, whether paid or unpaid, may be covered by FMLA and would, therefore, count toward the employee's 12-week entitlement;
 - (C) Informing the employee of the determination so the absence can be properly coded on the employee's time sheet;
 - (D) Informing the employee of his/her rights and obligations while the employee is on a FMLA absence; and,
 - (E) Preserving management's right to provide only as much time off as the law requires.

(r) Designation of a FMLA Absence

If the JHRD has sufficient knowledge to determine an absence is protected under the FMLA, then the JHRD is required to designate it as such, even absent documentation. The employee may not bar an employer from designating any qualifying absences as FMLA leave. The designation may be made retroactively (not to exceed 12 months) if necessary. Failure to designate an absence as FMLA can result in the leave not counting towards the employee's 12-week entitlement.

(s) Contacting Employee's Health Care Provider

The JHRD may contact the employee's or eligible family member's health care provider to authenticate and/or to clarify medical documentation related to the FMLA condition. An employee's supervisor(s) must not contact the provider.

(t) Exceptions: The Chief Judge of the Court of Appeals and the State Court Administrator may make exceptions to this policy.

(u) Interpretive Authority: The JHRD is responsible for the interpretation of this policy.

(v) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES

4.4 POLICY ON LEAVE

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to establish uniform practices for the administration of leave from work for employees.
- (2) **Scope**
 - (A) This policy applies to:
 - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
 - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
 - (B) This policy does not apply to:
 - (i) locally funded employees in the Circuit Courts;
 - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
 - (iii) employees of the Register of Wills or the Orphans' Court; and
 - (iv) judges, clerks of court (except for accrual of sick leave), and commissioners.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
 - (C) The Chief Judge of the District Court for employees of that Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **Alternative Work Schedule** – A work schedule that allows an employee to work a compressed work week or flexible work hours as defined by this policy.
- (3) **Chargeable Sick Leave Occurrence** – All sick leave usage (or other leave used in lieu of sick leave) other than:
 - (A) A prescheduled pre-approved absence for a medical appointment; and,
 - (B) An absence protected by the Family and Medical Leave Act (FMLA) or that is granted as an accommodation under the Americans with Disabilities Act (ADA).

- (4) **Child** – Biological child, adopted child, foster child, stepchild, or child of a person standing in loco parentis.
- (5) **Commute Time** – The time it normally takes for an employee to travel from his or her residence to his or her office.
- (6) **Contractual Employee** – An employee whose condition of employment and compensation are specified in a personal services contract.
- (7) **Exempt Employee** – An employee who is exempt from the overtime provisions of the Fair Labor Standards Act.
- (8) **Full-Time** – Having a work schedule of 40 hours per week.
- (9) **Health Care Provider** – A doctor-of-medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;
- (A) A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor authorized to practice in any state and performing within the scope of his or her practice as defined under that state’s law;
 - (B) A nurse practitioner, physician’s assistant, nurse-midwife, or clinical social worker who is authorized to practice under any state’s law and who is performing within the scope of his or her practice as defined under that state’s law;
 - (C) A Christian Science practitioner listed with the First Church of Christ Scientist in Boston, Massachusetts;
 - (D) Any health care provider from whom an employer or a group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits;
 - (E) A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; and,
 - (F) For non-FMLA purposes, any health care provider accepted by the State Court Administrator.
- (10) **Immediate Family Member:**
- (A) The legal spouse of the employee;
 - (B) A child of the employee or spouse;
 - (C) A parent of the employee or spouse;
 - (D) A family member for whom the employee or the employee’s spouse is the legal guardian or serves in loco parentis; and
 - (E) A family member living as a member of the employee’s household.
- (11) **In Loco Parentis** – To serve in the place of a parent, and to have and exercise the rights and responsibilities of a parent, including the day-to-day responsibilities of caring for and financially supporting a child.

- (12) Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (13) Leave Year** – A period of time beginning with the first day of the first complete pay period of a calendar year and ending with the last day of the pay period that includes December 31 of that calendar year.
- (14) Liberal Leave** – A work status declared for the employee’s office as a result of inclement weather or other sufficient reasons.
- (15) Medical Care** – Medical appointments, medical treatment, or hospitalization.
- (16) Military Caregiver Leave** – Leave allowing a covered spouse, child, parent, or nearest blood relative of a current service member in the Regular Armed Forces, National Guard or Reserves, or a veteran, to use up to 26 weeks to care for the current service member who has incurred a serious injury or illness in the line of duty while on active duty, or to care for a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred or aggravated in the line of duty while on active duty at any time during the five years preceding the date of treatment and that manifested itself before or after the member became a veteran.
- (17) Military Exigency Leave** – Leave allowing a covered spouse, parent, or child of an active duty service member or current member of the National Guard or Reserves to take up to 12 weeks of leave due to a qualifying exigency resulting from the covered family member’s active military duty or federal call to active duty status in support of a contingency operation. It includes non-medical, non-routine activities such as:
- (A) Short-notice deployment activities;
 - (B) Military events and related activities;
 - (C) Childcare and school activities;
 - (D) Financial and legal arrangements;
 - (E) Counseling;
 - (F) Rest and recuperation;
 - (G) Post-deployment activities; and,
 - (H) Additional activities.
- (18) Non-Exempt Employee** – An employee who is covered by the overtime provisions of the Fair Labor Standards Act.
- (19) Office** – The normal place of business for an employee.

(20) Overtime –

- (A) Non-exempt Employee. Hours worked in excess of an employee’s normal work day, as pre-approved by the administrative head, provided total hours worked (to include paid leave) for the work week exceed 40. Hours exceeding 40 are compensated at the rate of time and one half. When an employee takes leave for any part of the day, no overtime accrues on that day until the hours worked beyond the employee’s normal work day exceed the leave hours that were taken.
- (B) Exempt Employee. Although an exempt employee also may be required to work hours that are beyond the employee’s normal work day, the hours worked are not eligible for a cash overtime payment. The employee will accrue compensatory leave at the straight time rate, provided the total hours worked (to include paid leave) for the week exceed 40. Compensatory leave does not begin to accrue until an employee has worked 30 minutes beyond the employee’s normal work day. Total compensatory leave accrued includes the first 30 minutes plus any time worked after the first 30 minutes. When an employee takes leave for any part of the day, no compensatory leave accrues until the hours worked beyond the employee’s normal work day exceed the leave hours that were taken. See Section (e)(4) of this policy and the Policy on Classification and Compensation, Section (c)(17)(B), for more information on compensatory leave for exempt employees.

(21) Parent – Biological parent, adoptive parent, foster parent, stepparent, or person standing in loco parentis to a child.

(22) Part-Time – Having a work schedule of less than 80 hours per pay period.

(23) Prior Approval – Supervisor’s approval of an employee’s leave request that was submitted prior to the leave being taken (or, if circumstances do not allow for prior approval in the JHRD information system, then oral approval until such approval is possible). The administrative head will determine how far in advance an employee must request leave for an absence to be considered a scheduled absence. That standard shall be consistently applied by the administrative head.

(24) Regular Employee – For purposes of this policy, an employee holding a position funded under an approved budget, paid through the Central Payroll Bureau of the Comptroller, and having an assigned position identification number (PIN). This does not include clerks of court, contractual and temporary employees, judges, and law clerks.

(25) Reinstatement (or Reinstated) – The re-employment, within three years, of an individual who separated in good standing from employment with the state of Maryland and the restoration of leave benefits.

(26) Sick Leave Abuse – The wrongful or improper use of sick leave, to include but not be limited to, using sick leave under false pretenses (such as calling in sick when the employee or immediate family member is not sick, or otherwise attempting to use sick leave in lieu of other leave when the absence is not covered by sick leave), excessive use of sick leave that is not protected by the FMLA or the ADA, or a pattern of usage that could be considered suspect (such as using sick leave excessively or on the work day before and/or the work day after holidays or weekends).

- (27) Sick Occurrence** – A period of absence, whether paid or unpaid, that is not protected by the FMLA or the ADA or is not for a prescheduled and preapproved medical appointment.
- (28) Temporary Employee** – An employee whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment is not to exceed one year from the date of hire.
- (29) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
- (30) Unscheduled Leave** – Leave that was not requested and approved sufficiently prior to the leave being used as determined by the administrative head.
- (31) Work Day** – An employee’s normally scheduled work day.
- (32) Work Time** – Time during which an employee:
- (A) Is on duty, whether at the employee’s principal work site or at an alternate work site;
 - (B) Is on paid leave for determining payment of wages and leave earnings, except for Workers’ Compensation purposes and for overtime purposes as defined in this policy; and,
 - (C) With the requisite approval, participates in training activities, conferences, conventions and seminars as a job requirement.
- (33) Work Week** – A work week is Wednesday through Tuesday.

(c) Policy Statement and General Provision

The need for sufficient employee staffing for the prompt and effective disposition of Judiciary business is a paramount consideration in scheduling any absence, whether for a court-related function, or for personal reasons. This policy is intended to ensure that absences do not interfere unduly with the conduct of Judiciary business or burden judicial resources, and to make scheduling of such absences predictable.

The Maryland Judicial Branch of Government recognizes its employees may, on occasion, need to be absent from work for various reasons. The Judiciary, therefore, provides certain types and amounts of paid leave and unpaid leave which may be used for these absences.

This policy explains the types and amounts of leave earned or granted and the requirements for requesting and using such leave. Leave earned or granted cannot be auctioned or sold.

Pursuant to State Personnel and Pensions Article (SPPA) § 2-301, a state employee who transfers to a position in any unit of State government, regardless of the personnel system governing the position, shall do so without a loss of leave earned or service credit for employment in other units of state government.

County or Baltimore City employees who work in a Circuit Court and who transfer directly to a State Judiciary position as a regular employee shall do so without a loss of leave earned or service credit for leave earning purposes, pursuant to this policy.

(d) Absence as an Accommodation

- (1) Religious Accommodation.** An employee seeking an absence as a religious accommodation is required to follow the procedures set forth in the Judiciary's Policy on Religious Accommodation.
- (2) Disability Accommodation.** An employee seeking an absence as an accommodation for a disability is required to follow the procedures set forth in the Judiciary's Policy on Accommodations of Disabilities.

(e) Types of Leave and Administrative Procedures

- (1) Accident Leave.** Leave that may be granted to a regular employee to cover an absence due to a job-related compensable injury. Contractual and temporary employees are not eligible for accident leave but may be eligible for temporary total disability benefits (TTD) from the Injured Workers Insurance Fund (IWIF).
 - (A) Eligibility begins on the initial date of a job-related accidental personal injury sustained by the employee that is ruled to be compensable by IWIF or the Workers' Compensation Commission (WCC). Paid accident leave equates to two-thirds of the employee's pay.
 - (B) Accident leave ends when a medical provider certifies in writing the employee is able to return to work, or at six months from the date of the initial date of injury, or when IWIF or WCC determines it is to be rescinded, whichever first occurs. At that time, the employee may be required to return to work. If not, and the employee's absence continues, then the employee must use his or her own leave.
 - (C) If an employee is absent due to a compensable workplace injury and is eligible to use accident leave, then the employee must use accident leave to cover that absence in lieu of using accrued leave.
 - (D) An absence due to a workplace injury, whether or not eligible for accident leave, may be covered by the FMLA and may be so designated.
- (2) Administrative Leave.** Leave that may be granted to a regular employee (*unless otherwise indicated*) for the following purposes:
 - (A) **Delayed Opening, Early Release, or Administrative Closing** (Includes law clerks, and contractual and temporary employees)
 - (i) **Delayed Opening**

- (I) An employee who is scheduled to work during the opening hours and who reports to work at the time the office is open, will be granted administrative leave for the period of work time missed due to the delayed opening.
- (II) An employee who reports to work later than the delayed opening without prior approval will be required to use unscheduled personal leave for the time missed (time of delayed opening to actual arrival time) or, with supervisory approval, may make up the time missed by working beyond the employee's normal schedule.
- (III) An employee who fails to report to work after the office is open, without prior approval, will be required to use unscheduled personal leave for the entire work day, or leave-without-pay if personal leave is not available.
- (IV) An employee who is expected to report to a location other than the primary work site, is expected to follow the procedures for that location. The conditions described in the items above would apply, unless the employee's supervisor notifies the employee otherwise. The employee must consult with the supervisor if this situation occurs.
- (V) An employee teleworking from home on a work day when a delayed opening is declared, will be expected to continue to work from home on that work day, if possible. If the employee is incapable of performing work from home due to the cause for the delayed opening of the employee's office, then the employee may be granted administrative leave upon the request of the employee and the approval of the administrative head.
- (VI) If liberal leave is declared, an employee may use leave pursuant to Section (g) of this policy.
- (VII) Law clerks, and contractual and temporary employees will be paid for the time the office is closed for the above reasons, provided they were scheduled to work during the time the office was closed, and they reported for work when the office opened.

(ii) **Early Release for Holidays**

- (I) Pursuant to the August 7, 1998 Administrative Order, entitled "Early Release for Holidays" the Court of Appeals, the Court of Special Appeals, the Circuit Courts, the District Court, the Orphans' Courts, the offices of the Clerks of Court, the Administrative Office of the Courts, and units shall remain open with at least minimal staff after 2:00 p.m. for normal business hours in the afternoon preceding the day observed for December 25th and January 1st or, if those holidays are observed on Monday, after 2:00 p.m. in the afternoon of the preceding Friday. An employee dismissed at 2:00 p.m. on those days will receive paid administrative leave for the remainder of the employee's work day. Also refer to the Fact Sheet entitled "Leave Accounting Procedures for Early Release for Holidays" on the JHRD page of the Judiciary's website.
- (II) A regular employee who remains at work following the early release will earn compensatory time at the rate of time and one half. A Contractual or temporary employee who remains at work will be paid at the rate of time and one half.

(iii) **Early Release for Other Reasons.** The following applies when a Judiciary location closes its operation earlier than the regular closing time:

- (I) An employee who is at work, and who is scheduled to work until the end of the employee's regular work day, will be granted administrative leave for the period of work time missed due to the early closing.
- (II) An employee who, with approval, leaves work before an announcement is made about closing, will be charged with leave for the remainder of the employee's work day.
- (III) An employee who, with approval, leaves work after the announcement is made but prior to the closing time, will be charged with leave until the time of closing. The employee will receive administrative leave from the time of closing to the end of the employee's work day.
- (IV) An employee who is working at a location other than the primary work site shall follow the early release procedures for that location.
- (V) An employee teleworking from home on a work day when an early release is declared, will be expected to continue to work from home and complete his or her work day. If the employee is incapable of performing work from home due to the cause for the early release/closing, then the employee may be granted administrative leave upon the request of the employee and the approval of the administrative head.
- (VI) If liberal leave is declared, an employee may use leave pursuant to Section (h) of this policy.

(iv) **Full-Day Administrative Closing**

- (I) Administrative leave will be granted to an employee for a full-day closing if the employee is scheduled to work the full day. An employee on an alternative work schedule with a work day of more than eight hours, will be granted a maximum of eight hours of administrative leave for a full-day closing. The employee will be required to use accrued leave (if available) to make up the difference.
- (II) An employee scheduled to work at a location other than the primary work site will follow the closing procedure for that location. The employee may be required to report to work at the employee's primary work site or an alternative site.
- (III) An employee teleworking from home on a work day when his or her office is closed, will be expected to continue to work from home and complete his or her work day. If the employee is incapable of performing work from home due to the cause for the office closing, then the employee may be granted administrative leave with the approval of the administrative head.

(v) **Not Eligible for Administrative Leave if on Scheduled Leave**

An employee who is scheduled to be on leave the day a delayed opening, early release, or full-day closing occurs shall remain on that leave. An employee cannot rescind a leave request that is in saved, submitted, or approved status for that day once the delayed opening, early release, or full-day closing is announced, and will not be eligible for administrative leave for the time of the requested absence.

(B) **Jury Service** (Includes law clerks-and contractual employees)

- (i) An employee who is selected for jury service shall notify his or her supervisor without delay and provide the supervisor with a copy of the jury service notice.

- (ii) An employee is eligible for administrative leave for jury service only when the service occurs on a work day and the employee provides documentation confirming the date and time of service on that work day.
 - (iii) An employee shall return to work when the employee is dismissed from jury service for the day, time permitting, as determined by the employee's supervisor. In the alternative, the employee may request leave for the remainder of the work day. The employee may request annual, personal, or compensatory leave; or furlough or administrative leave (if such leave is available pursuant to an administrative order for salary reductions and furloughs). The request will be approved or denied at the discretion of the supervisor. This use of leave will not be considered unscheduled leave.
 - (iv) An employee may use administrative leave for the remainder of the employee's work day if time does not permit the employee to return to work after being dismissed.
 - (v) If an employee is summoned and appears for jury service for four or more hours, including travel time, the employee is not required to work a shift that begins on or after 5:00 p.m. on the day of the employee's appearance for jury service, or before 3:00 a.m. on the day following the appearance for jury service. An employee must use leave if he or she chooses not to report to work. The employee may use annual, personal, compensatory, furlough, or administrative leave (if such leave is available pursuant to an administrative order for salary reductions and furloughs). This use of leave will not be considered unscheduled leave.
- (C) **Legal Action** (Includes law clerks and contractual employees). Administrative leave may be granted when the employee or the employee's child under the age of 18 is subpoenaed to appear in a Maryland court, grand jury, or administrative agency proceeding as a witness, provided the employee or the child is not a party to the action or a paid witness. Documentation and prior approval are required.
- (D) **Military Activity.** Administrative leave may be used for military training or active military duty in a reserve unit of the armed forces or in the organized militia (up to 15 days per year as needed); and for other military related reasons pursuant to SPPA § 9-1107. The employee should provide documentation and advanced notice when possible. Reinstatement to employment after military service is covered by the Uniformed Services Employment and Reemployment Rights Act.
- (E) **State Employment Test or State Employment Interview.** Up to four hours of administrative leave may be used for each occurrence, for the travel time to and from the examination or interview, and the time spent at the examination or interview. Documentation and prior approval required. An employee must use accrued leave to cover any additional time off that is needed.
- (F) **State Retirement and Pension System Related Seminars.** Up to eight hours of administrative leave may be granted to attend the seminar, if the employee is within five years of retirement by either age or years of service. The administrative head may limit the number of seminars employees are permitted to attend. Prior approval and documentation of attendance are required.

- (G) **Serving as an Election Judge.** A Judiciary employee who serves as an election judge for a statewide or special primary or general election during the hours the employee is otherwise scheduled to work for the Judiciary may use one hour of administrative leave for each hour of service as an election judge, up to a total of eight hours for the primary election and up to eight hours for the general election. The leave must be used in one block of time for each occurrence. An employee is not granted administrative leave for training to serve as an election judge. Documentation and prior approval are required.
- (H) **Disaster Service** (Includes law clerks, and contractual and temporary employees)
- (i) An employee may be entitled to administrative leave for disaster service if:
 - (I) The employee is certified by the American Red Cross as a disaster service volunteer; and,
 - (II) The American Red Cross requests the service of the employee during a disaster that is designated at Level II or above in the regulations and procedures of the National Office of the American Red Cross.
 - (ii) An employee may use up to 15 work days of administrative leave for disaster service in any 12-month period only after obtaining approval from the employee's administrative head;
 - (iii) For purposes of workers' compensation and the Maryland Tort Claims Act, while an employee is using administrative leave for disaster service, the employee is deemed not to be a Maryland Judicial Branch of Government employee.
- (I) **Organ Donation** (Includes law clerks, and contractual and temporary employees. For judges, see the Policy on Judicial Absences from Court)
- (i) An employee may be entitled to administrative leave for organ donation with pay;
 - (ii) An employee may use up to seven work days of administrative leave for organ donation in any 12-month period to serve as a bone marrow donor;
 - (iii) An employee may use up to 30 work days of administrative leave for organ donation in any 12-month period to serve as an organ donor;
 - (iv) An employee may use administrative leave for organ donation only after providing the required documentation and obtaining approval from the employee's administrative head prior to using the leave.
 - (v) The JHRD may require documentation to support requests for this type of leave.
- (J) **Bereavement**
- (i) An employee may use 24 hours or, if overnight travel is required, 40 hours of administrative leave after the death of the following family members:
 - (I) Immediate family members as defined in this policy;
 - (II) Biological, adoptive, foster, and step sibling of the employee or spouse, and the sibling's spouse;
 - (III) Grandparents or grandchildren (including great-grandparents or great-grandchildren) of the employee or spouse; and,
 - (IV) Current sons-in-law or current daughters-in-law of the employee or spouse.
 - (ii) An employee may use eight hours of administrative leave after the death of an aunt, uncle, nephew, or niece of the employee or employee's spouse.

- (iii) Nothing in this subsection is to prevent an employee from requesting, and being granted, in accordance with this policy, annual, personal, or compensatory leave (or leave-without-pay if paid leave is not available) to be used after the death of any family member listed above.
- (iv) The supervisor is responsible for approving the use of administrative leave for bereavement and checking to ensure the proper leave code is recorded on the employee's time report.
- (v) A supervisor shall notify his or her administrative head whenever a request for such leave appears to be of a suspicious nature. In such cases, or as otherwise determined by the administrative head, an employee may be required to provide documentation that is sufficient to confirm the death and the employee's relationship to the deceased, which may include, but not be limited to, a published obituary or documentation from the funeral service provider.

(K) **Other Reasons.** As deemed necessary by the Chief Judge of the Court of Appeals or the State Court Administrator.

(3) Annual Leave. Leave earned by a regular employee when in a paid status, at a rate determined by the employee's length of state and local Judiciary service and part-time or full-time status. (Pay period earning rates may vary if the employee had leave-without-pay within the pay period. Part-time regular employees whose percentage of employment is 50% or greater will earn annual leave on a prorated schedule based on their percentage of employment. Part-time employees whose percentage of employment is less than 50% do not earn annual leave).

(A) Annual leave earned per year, based on years of service:

- (i) Less than five years: 80 hours (3.08 hours per pay period);
- (ii) At least five but less than 10 years: 120 hours (4.62 hours per pay period);
- (iii) At least 10 but less than 20 years: 160 hours (6.17 hours per pay period); and
- (iv) 20 or more years: 200 hours (7.68 hours per pay period).

(B) A Maryland Judicial Branch of Government employee new to state service, or who transfers from another unit of state government, or from a locally funded Judiciary position, is not eligible to use annual leave until the employee has completed six months of service and successfully completed the initial probationary period (if one is required), including any extensions of the probationary period.

(C) The use of annual leave must be requested in advance and will be denied or approved at the discretion of the supervisor. Annual leave may be used only when requested in advance and with the prior approval of the employee's supervisor, except in instances when liberal leave is declared, or the employee is using annual leave in lieu of sick leave.

- (i) Annual leave may be used in lieu of sick leave pursuant to Section (e)(9) of this policy, including for an absence covered by the FMLA. Annual leave used in lieu of sick leave, except for absences covered by the FMLA, shall be treated as an occurrence of sick leave in accordance with Section (e)(10) of this policy.
- (ii) Annual leave may be used for purposes of the Maryland Healthy Working Families Act, also known as the Sick and Safe Leave Act, that are not covered under Section (e)(9). However, if

annual leave is used for Sick and Safe Leave purposes, then the employee must use at least four (4) hours of annual leave for that occurrence. An employee may use a maximum of 64 hours of leave for Sick and Safe Leave purposes in a leave year. This includes annual or personal leave or a combination of both.

- (D) An employee may accumulate unused annual leave and may carry over from one leave year to the next a maximum of 600 hours of unused annual leave.
- (E) Any accumulated and unused annual leave that is in excess of 600 hours shall be forfeited to the Judiciary Leave Bank at the beginning of the next leave year.
- (F) An employee separated from Judiciary service, except for reasons stated in Section (e)(3)(H) below, will be compensated for all unused annual leave upon separation, provided the employee has completed six months of service and completed the initial probationary period if one is required.
- (G) An employee whose Maryland Judicial Branch of Government employment is terminated for a cause involving moral turpitude (which may include, but is not limited to, theft, perjury, bribery, forgery, and vice crimes) forfeits all unused annual leave and all compensation for unused annual leave. Annual leave forfeited for this reason will be placed in the Judiciary Leave Bank.
- (H) An employee who leaves Judiciary service within six months after the employee's initial appointment with the Judiciary, or prior to completing the initial probationary period (if one is required), is not eligible to be compensated for unused annual leave, except for any unused annual leave transferred from another unit of state government or locally-funded Judiciary position.

(4) Compensatory Leave. Leave accrued by an employee (excluding magistrates, law clerks, and contractual and temporary employees) when working beyond the employee's normal work day as required by business necessity and approved by the administrative head, or for other reasons described below.

(A) Reasons for Earning Compensatory Leave:

- (i) When working on a Judiciary holiday;
- (ii) When working before a delayed opening, if directed to do so by the administrative head;
- (iii) When working after an early or emergency release or closing, if directed to do so by the administrative head;
- (iv) When, under the employee's alternative work schedule, the employee's scheduled day off falls on a paid holiday (a maximum of eight hours);
- (v) For exempt employees, and in some instances for non-exempt employees, when working beyond the employee's normal work day that is required and has been approved in advance by the administrative head, provided total hours worked (to include paid leave) for the work week exceed 40;
- (vi) For part-time regular exempt employees, when working beyond the number of hours equivalent to their percentage of employment. For example, if an employee is a 50%

employee, meaning he or she works 40 hours per pay period, then any hours worked beyond 40 will be compensated with compensatory leave at the straight time rate; or,

- (vii) When the Chief Judge of the Court of Appeals, the Chief Judge of the District Court, or the State Court Administrator, based on budgetary constraints or in unusual situations, determines compensation for hours worked beyond the employee's normal work day shall be offered only as compensatory leave and the employee is notified of such prior to working those hours.

(B) Regular Exempt Employees (not cash overtime eligible)

- (i) A regular exempt employee authorized to work beyond the employee's normal work day will begin to accrue compensatory leave only after the employee has worked at least 30 minutes beyond the normal work day. Total compensatory leave accrued includes the first 30 minutes plus any time worked after the first 30 minutes. Exempt employees accrue compensatory leave at the straight time rate for authorized hours worked beyond the employee's normal work day, provided total hours worked (to include paid leave) for the work week exceed 40. When an employee takes leave for any part of the day, no compensatory leave accrues on that day until the hours worked beyond the employee's normal work day exceed the leave hours that were taken.
- (ii) Regular exempt employees who, with supervisory approval, work during a Judiciary holiday, delayed opening, or an early/emergency release or closing will earn compensatory leave at the straight time rate. If the Chief Judge of the Court of Appeals so declares on any of the above occasions, employees will accrue compensatory leave at the rate of time and one-half for all time worked. This is in addition to holiday or administrative leave granted to the employee for the closing of the employee's office for such an event. An employee shall not work on these occasions unless he or she has supervisory approval to do so.
- (iii) There is no maximum amount of compensatory leave a regular exempt employee may accumulate.
- (iv) A regular exempt employee may transfer up to 80 hours of unused compensatory leave upon transfer of employment:
 - (I) To the State Judiciary from another unit of state government or from a county or city office of a Circuit Court; or,
 - (II) From the Judiciary to another unit of state government, or to a county or city office of a Circuit Court (if allowed by the local jurisdiction). For Maryland Judicial Branch of Government employees transferring to another unit of state government, an employee will be paid out for unused compensatory leave that exceeds 80 hours.
- (v) Except for paragraph (iv)(II), unused compensatory leave may be paid out to a regular exempt employee only at the time of separation from state service.

(C) Regular Non-Exempt Employees (cash overtime eligible)

- (i) Regular non-exempt employees normally are paid cash overtime at the rate of time and one-half for all overtime hours worked except in the circumstances described in this section. The employee must have prior approval to work overtime. When an employee takes leave for any part of the day, no overtime or compensatory leave accrues on that day until the hours worked beyond the employee's normal work day exceed the leave hours that were taken.

- (ii) If the employee requests and the administrative head so permits, or if there is a business necessity as determined by the Chief Judge of the Court of Appeals or the State Court Administrator, then the employee may be compensated with compensatory leave at the rate of time and one-half for overtime hours worked. In such instances, the employee shall receive advanced notice that the employee's compensation will take the form of compensatory leave rather than cash overtime.
- (iii) Regular non-exempt employees who, with supervisory approval, work during a Judiciary holiday, delayed opening or an early/emergency release or closing will earn compensatory leave at the straight time rate. If the Chief Judge of the Court of Appeals so declares on any of the above occasions, employees will accrue compensatory leave at the rate of time and one-half for all time worked. This is in addition to holiday or administrative leave granted to the employee for the closing of the employee's office for such an event. An employee shall not work on these occasions unless he or she has supervisory approval to do so.
- (iv) Regular non-exempt employees may accumulate a maximum of 240 hours of compensatory leave. Any additional hours will be paid in cash.
- (v) Payment for Unused Compensatory Leave
 - (I) Unused compensatory leave will be paid out only upon leaving state.
 - (II) A regular non-exempt employee may transfer all unused compensatory leave upon transfer of employment from another unit of state government to a state-paid Judiciary position, from a county or city office of a Circuit Court to a state-paid Judiciary position, or from a state-paid Judiciary position to another unit of state government.

(D) Contractual and Temporary Employees

- (i) Contractual and temporary employees do not earn compensatory leave and are compensated in cash for all overtime hours worked. The Chief Judge of the Court of Appeals, the Chief Judge of the District Court, the State Court Administrator, or other administrative head may make an exception based on budgetary constraints or in an unusual situation and may determine with notice to the employee that compensation for overtime worked shall be offered only as compensatory leave. This exception generally will apply only in extraordinary circumstances as determined by those listed above. The employee's supervisor shall keep track of compensatory leave earned and used by a contractual or temporary employee.
- (ii) Non-exempt contractual and temporary employees are compensated at the rate of time and one-half for overtime hours worked.
- (iii) Contractual and temporary exempt employees are compensated at the straight time rate for authorized overtime hours worked.
- (iv) If, at the direction of the supervisor, a contractual or temporary employee works during a Judiciary holiday, delayed opening, or an early/emergency release, then the employee will be paid at the rate of time and one-half for the time worked. This is in addition to holiday or administrative leave to which the employee may be eligible for such an event.

- (E) **Law Clerks.** Law clerks, whether in a regular, contractual or temporary position, are not eligible for cash overtime, do not earn compensatory leave, and are not compensated in any manner for hours worked beyond the employee's normal work day, nor do they receive additional

compensation for working during a Judiciary holiday, delayed opening, or an early/emergency release.

- (F) **Permission.** The use of compensatory leave must be requested in advance and will be approved or denied at the discretion of the supervisor, except in instances when liberal leave is declared or the employee is using compensatory leave in lieu of sick leave.
- (G) **In Lieu of Sick Leave.** Compensatory leave may be used in lieu of sick leave, including for absences covered by the FMLA. If it is used in lieu of sick leave, then it shall be treated as sick leave when counting sick occurrences in accordance with Section (e)(10) of this policy.
- (H) **Requirement to Work Beyond the Employee's Normal Schedule.** An employee may be required to work hours that are beyond the employee's normal schedule regardless of the manner in which the employee will be compensated for those hours.
- (I) **Travel.** When an employee is required to work beyond the employee's normal work day when traveling to or from a work location other than the employee's office, the employee's commute time will not be counted when calculating the amount of compensatory leave earned for that day.

(5) Holiday Leave. Paid leave for a Judiciary holiday granted to an employee (excluding a contractual or temporary employee) who is in paid status when the holiday occurs. The leave is prorated based on percentage of employment.

(A) Full-time employees are granted 11 Judiciary holidays, with pay, per calendar year, or 12 during the year of a general election. Occasionally, additional days may be declared holidays. Employees who work on any of these holidays will be credited with compensatory leave at the rate of time and one-half in addition to the holiday pay.

(B) Part-time employees are granted holiday leave on a prorated schedule based on their percentage of employment.

(C) Employees on alternative work schedules are granted a maximum of eight hours of holiday leave per holiday. The employee must use another form of leave for any additional hours.

(6) Leave-Without-Pay. An absence for which a regular employee is not paid.

(A) The need for sufficient employee staffing for the prompt and effective disposition of Judiciary business is a paramount consideration in scheduling any absence, whether for a court-related function, or for personal reasons. This policy is intended to ensure that absences do not interfere unduly with the conduct of Judiciary business or burden judicial resources, and to make scheduling of such absences predictable.

- (B) The granting of an employee’s request for leave-without-pay should not be routine, as the use of leave-without-pay should not be a remedy for poor leave management. The request can and should be denied, except in extraordinary circumstances or when the employee is entitled to such leave by law.
- (C) When all paid leave has been exhausted, an employee may request leave-without-pay if the employee is entitled to such leave by law, such as for purposes of active military duty, for absences protected by the FMLA, or as a religious accommodation. This requirement may be waived when the employee is receiving Temporary Total Disability (TTD) benefits by order of the Workers’ Compensation Commission, or in cases involving a military leave of absence.
- (D) A request for leave-without-pay shall be submitted to the administrative head. Decisions on such requests are at the discretion of the administrative head, in consultation with the Director of JHRD.
- (E) An employee shall be placed in leave-without-pay status when the employee is absent and is ineligible to use paid leave or when the employee is absent without approval.
- (F) An employee may be placed on leave-without-pay by the administrative head as a result of a disciplinary suspension.
- (G) An employee does not accrue annual and sick leave while in leave-without-pay status, nor does the employee receive payment for holidays. Therefore, leave accruals will be less in a pay period when there is leave-without-pay.

(7) Parental Leave. See the Policy on Parental Leave.

(8) Personal Leave. Regular employees are granted up to 48 hours of personal leave in a leave year.^{1 2} For personal leave, the leave year is divided into halves. An employee will be granted 24 hours of personal leave for each half of the year. Personal leave granted in the first half of the leave year that is not used will carry over to the second half of the leave year.

- (A) For employees in regular positions at the beginning of the leave year, personal leave will be granted as follows:³
 - (i) First pay period in the new leave year: 24 hours.
 - (ii) The pay period that includes July 1: an additional 24 hours.

¹ Up to 56 hours in a leap year.

²Part-time regular employees whose percentage of employment is 50% or greater will be granted personal leave on a prorated basis in accordance with their percentage of employment. Part-time regular employees whose percentage of employment is less than 50% will not be granted personal leave.

³ In a leap year, the amounts will increase to 28 hours, prorated based on percentage of employment.

- (B) For new employees hired into regular positions during the leave year, personal leave will be granted as follows:⁴
- (i) Hired from the beginning of the leave year to February 29: 24 hrs.
 - (ii) Hired from March 1 to April 30: 16 hrs.
 - (iii) Hired from May 1 to June 30: 8 hrs.
 - (iv) Hired from July 1 to August 31: 24 hrs.
 - (v) Hired from September 1 to October 31: 16 hrs.
 - (vi) Hired November 1 or later: 8 hrs. (An employee beginning employment on or after this date may not be allowed to use personal leave due to numerous holidays and staffing issues typical for this period, unless the employee is legally entitled to the absence, such as for ADA, FMLA, or religious accommodation purposes. However, managers should allow the use of personal leave, if at all possible.)
- (C) An employee who transfers to the Judiciary from another unit of state government shall do so without a loss of unused personal leave, but the employee shall not be granted additional personal leave for the leave year in which the employee transfers. Even though an employee may transfer to the Judiciary in the first half of the leave year with more than 24 hours, he or she may only use up to 24 hours prior to the pay period that includes July 1.
- (D) Employees are advised to retain sufficient personal leave to accommodate emergency situations that may arise throughout the year.
- (E) **Unscheduled Personal Leave.** Personal leave may be used for any purpose without prior approval a maximum of six times within a leave year.
- (i) Use of unscheduled personal leave must meet the following conditions:
 - (I) The employee notifies the immediate supervisor not later than 15 minutes after the normal reporting time that the employee intends to use personal leave. For proper notification, the employee must speak with the employee's supervisor or the supervisor's designee, unless the administrative head determines otherwise. The administrative head may waive a late notification if the employee provides a sufficient excuse.
 - (II) The employee's absence does not create a shortage of staff in the employee's office.
 - (ii) An administrative head may make an exception to the six occurrences limitation only in extraordinary circumstances. The employee's supervisor is responsible for tracking occurrences of unscheduled personal leave.
 - (iii) Unless an exception is granted, an unscheduled absence that exceeds the six occurrences of unscheduled leave and that is not covered by sick leave or is not a result of liberal leave being declared, shall be charged to leave-without-pay. Such an absence is cause for a disciplinary action.

⁴ In a leap year, each amount of personal leave will increase by 8 hours, prorated based on percentage of employment.

- (F) **Scheduled Personal Leave.** A request for personal leave may be denied if there is insufficient notice or the approval would create a shortage of staff unless the employee is legally entitled to the absence.
- (i) Personal leave may be used as sick leave pursuant to Section (e)(9), including for an absence covered by the FMLA. Personal leave used as sick leave that is not covered by the FMLA shall be treated as sick leave when counting sick occurrences.
 - (ii) Personal may be used for purposes of the Maryland Healthy Working Families Act, also known as the Sick and Safe Leave Act, that are not covered under Section (e)(9). If personal leave is used for Sick and Safe Leave purposes, then the employee must use at least four (4) hours of personal leave for that occurrence.
 - (iii) Unscheduled personal leave used for Sick and Safe Leave purposes will not count toward the limit of unscheduled personal leave described in paragraph (E) above.
- (G) Personal leave may be used for a religious belief, observance, or practice. If the employee has exhausted the six occurrences of unscheduled personal leave, then the employee must have prior approval to use such leave.
- (H) Personal leave is non-accruing and, therefore, unused personal leave cannot be carried over from one leave year to the next. No adjustment to personal leave balances can be made after the close of the leave year. Any personal leave not used by the close of the leave year will be forfeited to the Judiciary Leave Bank. Unused personal leave is not paid out upon separation from state service.

(9) Sick Leave

- (A) **Accrual.** A regular employee and Clerks of the Circuit Court begin earning sick leave from the first day of employment with the Judiciary. A regular full-time employee in paid status accrues a maximum of 120 hours of sick leave per leave year at the rate of 4.62 hours per pay period. A part-time regular employee whose percentage of employment is 50% or greater earns sick leave at a rate based on the percentage of employment. A part-time employee whose percentage of employment is less than 50% does not earn sick leave.
- (B) **Leave-Without-Pay Status.** An employee will not earn sick leave when in leave-without-pay status. An employee, therefore, will earn less sick leave in a pay period when there is leave-without-pay in that pay period.
- (C) **Carryover.** Unused sick leave may be carried over from one leave year to the next with unlimited accumulation.
- (D) **Permissible Uses.** Sick leave may only be used for:
- (i) An illness, disability or medical care of the employee or an immediate family member as defined in this policy;
 - (ii) Following the birth of the employee's child. (See the Policy on Parental Leave)

- (iii) When a child is placed with the employee(s) for adoption or foster care. (See the Policy on Parental Leave)
- (E) **Denial of Sick Leave or Other Leave Used as Sick Leave**
- (i) The use of sick leave or other leave used as sick leave may be denied when medical documentation is not produced as required.
 - (ii) Unless the absence is legally required, the absence may be denied if it will create a critical shortage of staff in the employee's office as determined by the supervisor, notwithstanding whether the employee has paid leave available.
- (F) **Sick Leave Not to be Used as Other Paid Leave.** Sick leave is not to be used for reasons other than as allowed by this section.
- (G) **Unused Sick Leave Added to Years of Service.** Upon retirement eligibility, unused sick leave is credited towards an employee's state service at a rate of one month of creditable service for every 22 days of sick leave. Unused sick leave cannot be used to reach retirement eligibility.
- (H) **Unused Sick Leave upon Separation and Reinstatement.** Unused sick leave is not paid out upon separation. If an employee is reinstated within three years of departure from state service, the employee's sick leave balance will be restored. However, if the employee is reinstated after he or she has retired from state service and the unused sick leave was counted toward years of service for retirement purposes, then the sick leave is not restored.
- (I) **Documentation**
- (i) Documentation may be required for the ADA, or the FMLA, or if the supervisor reasonably questions the employee's ability safely to return to work (for example, after a lengthy post-surgical convalescence or a serious contagious illness), or when there is a suspicion of sick leave abuse, and for other reasons determined by the administrative head.
 - (ii) If medical documentation is required, then documentation should be provided to the supervisor immediately upon the employee's return to work, unless the delay is due to factors beyond the employee's control. If the documentation is not provided within the same pay period, then the employee's absence shall be charged to leave-without-pay until the employee is able to provide the documentation. The employee may be subject to a disciplinary action for not complying with this requirement within a reasonable time frame.
 - (iii) The Judiciary may verify the authenticity of medical documentation. Documentation will be rejected if it is not authentic. An employee who submits inauthentic medical documentation shall be subject to termination of employment.
- (J) **Prescheduled and Pre-Approved Medical Appointments**
- (i) In order not to be a chargeable sick leave occurrence, the use of sick leave for a prescheduled medical appointment of an employee or immediate family member must have prior approval.
 - (ii) An employee must submit such a request for pre-approval to the employee's supervisor who shall advise the employee of approval or denial of the request.

- (iii) A supervisor may choose to require documentation of a prescheduled medical appointment if he or she is concerned the employee's use of sick leave for this purpose might be illegitimate, inappropriate, or constitute sick leave abuse.
- (K) **An Illness of Unknown Duration.** An employee diagnosed with an illness of unknown duration is expected to contact his or her supervisor at least once per week. The report should include any changes in the employee's current condition and anticipated return to work.
- (L) **Illness During Annual, Personal, or Compensatory Leave.** If an illness occurs during a period of annual, personal, or compensatory leave, an employee may request that the leave be changed to sick leave for the period of illness. The employee will be required to provide medical documentation pursuant to Section (e)(9)(I) of this policy.
- (M) **Other Leave Used in-Lieu-of Sick Leave.** An employee may use other paid leave in lieu of sick leave. If paid leave is not available, and the employee is entitled to the absence by law, the employee may use leave-without-pay. Other leave used in lieu of sick leave, whether paid or unpaid, will be treated as sick leave for purposes of tracking chargeable sick leave occurrences unless the absence is protected by law.
- (N) **Employee Responsibility.** An employee is expected to conserve and manage his or her own leave in order to be as prepared as possible for emergencies and extended illnesses. An employee is expected to become familiar with and abide by the provisions of this policy, and not to abuse his or her sick leave privileges.
- (i) An employee is expected to make every effort to schedule medical appointments to avoid as much as possible a disruption to Judiciary operations. When this is not possible, it is the employee's responsibility to coordinate with the supervisor to schedule the absence at a mutually beneficial time.
- (ii) An employee calling in sick for the work day is required to contact his or her supervisor within 15 minutes of the employee's normal reporting time. The administrative head will determine the required method by which the employee is to contact his or her supervisor. The administrative head may waive a late notification if the employee provides a sufficient excuse. For an absence of more than one work day, the employee shall follow the call-in procedures required for his or her office for such absences.
- (iii) When requested, it is the employee's responsibility to provide medical documentation pursuant to Section (e)(9)(I) of this policy.
- (O) **Management Responsibility**
- (i) When an employee requests sick leave for a medical appointment, the supervisor is encouraged to cooperate to the fullest extent possible in resolving any scheduling conflicts. Unless the supervisor is legally required to approve the absence, the supervisor may deny the request if the absence would create a hardship on operations. At that point, the supervisor should work with the employee to schedule the absence at a mutually beneficial time.

- (ii) Supervisors or managers must notify the JHRD when an employee's absence may be covered by the FMLA.
- (iii) Supervisors shall preserve the confidentiality of any medical information and documentation given to them by employees (with the exception of management personnel who have a need to know) and ensure that such information and documentation are retained and secured in a confidential manner. Documentation must be provided to JHRD or other appropriate parties upon request.
- (iv) The supervisor shall consider all chargeable sick leave occurrences, and the number, frequency, and basis of them when evaluating an employee's sick leave usage and implementing attendance management measures.
- (v) The supervisor is responsible for ensuring that the control of sick leave abuse is an integral part of the management process. This policy has been developed to assist the supervisor in fulfilling that responsibility. The success of this policy in managing sick leave usage depends on a consistent application and use of good judgment. Supervisors should regularly monitor employees' sick leave usage and take appropriate steps if an employee appears to be engaged in sick leave abuse. The JHRD can assist in this process by providing leave accounting reports upon request.

(P) Sick Leave Counseling

- (i) The supervisor shall counsel an employee having five or more chargeable sick leave occurrences within a "rolling" calendar year.
- (ii) The purpose of the counseling session is to:
 - (I) Identify the causes of the employee's absences;
 - (II) Determine if absences may qualify for the FMLA; and,
 - (III) Determine if there is sick leave abuse.
- (iii) The supervisor may require the employee to submit medical documentation for any period of illness and for any medical appointment (including illnesses and medical appointments of an employee's family member) until the employee's attendance has significantly improved for at least six consecutive months.
- (iv) If the supervisor suspects an absence might be for a qualifying FMLA condition, then the supervisor must notify the administrative head and the JHRD.
- (v) If there is evidence of sick leave abuse, then the employee will be subject to a disciplinary action up to and including the termination of employment.

(Q) Exhaustion of Leave. The Office of Payroll Services shall notify the administrative head when an employee has exhausted all paid leave and/or FMLA protections (if eligible) and the employee's absence continues. The administrative head shall cooperate with the JHRD to develop an appropriate strategy to address the situation.

(R) Independent Medical Evaluation. At the discretion of the JHRD, in consultation with the administrative head, an employee may be referred to the State Medical Director or other appropriate medical service for an independent medical evaluation. Good cause for such a referral includes, but is not limited to, determining whether the employee can perform the essential functions (including attendance requirements) of the employee's position, determining

whether the employee poses a threat to the work place, and/or determining whether the employee is in violation of the Judiciary's Substance Abuse Policy, or for other sufficient reasons as determined by the Judiciary.

- (S) **Simultaneous Payment of Leave and Temporary Total Disability (TTD) Benefits Prohibited.** An employee may not collect payment for sick leave or other leave and receive payment for TTD benefits simultaneously. If an employee is collecting TTD benefits, then the employee is prohibited from collecting payment for leave. If it is found an employee has collected payment for leave while also receiving TTD benefits, then the employee must repay to the Judiciary the money received for the leave.

(10) Sick and Safe Leave. Pursuant to the Healthy Working Families Act, otherwise known as the Sick and Safe Leave Act, an employee may use paid leave for a variety of reasons, in addition to what is allowed for sick leave usage in Section (e)(9) of this policy. This includes:

- (A) In addition to the family members covered under Section (e)(9) for sick leave usage, an employee may use annual or personal leave to care for or to obtain treatment for a mental or physical illness, injury or condition for the following family members:
- (i) A biological, adopted, foster, or step-grandparent of the employee;
 - (ii) A biological, adopted, foster, or step-grandchild of the employee; or
 - (iii) A biological, adopted, foster, or step-sibling of the employee.
- (B) An employee may use annual or personal leave, or sick leave if the absence is covered by Section (e)(9), if the absence from work is necessary due to domestic violence, sexual assault, or stalking committed against the employee or family members identified in Section (e)(9) and (10) and the leave is being used by the employee to obtain for the employee or family member:
- (i) Medical or mental health attention related to the domestic violence, sexual assault, or stalking;
 - (ii) Services from a victim services organization related to the domestic violence, sexual assault, or stalking;
 - (iii) Legal services or proceedings related to or resulting from domestic violence, sexual assault, or stalking; or
 - (iv) During the time that the employee has temporarily relocated due to the above reasons.
- (C) An employee may use up to 64 hours of annual and personal leave combined for Sick and Safe Purposes in a leave year.
- (D) This leave policy provides access to sufficient paid leave for Sick and Safe Leave purposes. However, an employee must use leave pursuant to the requirements in this policy. An employee should refer to the particular section of this policy that pertains to the type of leave the employee wishes to use.

(11) Time and Leave Reporting. The employee is responsible for entering the correct hours worked and leave code on the employee's time report. The employee's supervisor is responsible for checking the

report to ensure its accuracy. The Office of Payroll Services will consult with the administrative head or supervisor before making an adjustment to leave codes on an employee's time report.

(12) Lunch. Lunch breaks are considered time not worked and, therefore, time not paid.

- (A) Employees must take a lunch break unless precluded by business necessity or under extraordinary circumstances as determined by the administrative head. However, Commissioners do not get lunch breaks. If they choose to eat lunch, they must do so while on duty and it must not interfere with the performance of their work.
- (B) The administrative head has the discretion to allow either a ½ hour or a 1-hour lunch break. All employees, regardless of the length of the lunch break, must work 8 hours a day, unless the employee works part-time or works an alternative work schedule. A lunch break is not to be used in lieu of leave to come to work late, leave early, or to otherwise shorten the work day schedule, unless it is approved by the administrative head in extraordinary circumstances.
- (C) Exempt employees will not earn compensatory leave for working through the lunch period unless specifically required to do so by the administrative head.

(13) Other Leave for Contractual and Temporary Employees. In addition to the information in this policy:

- (A) Contractual employees should refer to their contractual agreement for leave information.
- (B) Temporary employees should refer to the leave information provided to them when hired or as updated thereafter.

(14) Required Notice Procedures. Employees are expected to adhere to the notice provisions described in this policy as well as notice provisions required at their location. An employee who fails to follow the notice procedures required for the applicable form of leave may be denied leave and/or subject to disciplinary action. Failure by the employee to communicate with the supervisor as required could lead to a disciplinary action and/or a determination of job abandonment.

(f) Military Leave of Absence

- (1)** A military leave of absence without pay may be granted to an employee who has been called to active duty or voluntarily entered the uniformed services. The employee cannot be required to use accrued leave while on active duty. The employee may, however, choose to use accrued leave. In that case, the leave of absence will not begin until the employee has exhausted accrued leave or the employee decides to discontinue using such leave. In accordance with SPPA § 9-1107, the employee may be entitled to state-paid military administrative leave while serving on active duty. Also refer to the Federal Uniformed Services Employment and Reemployment Rights Act for information on employment rights associated with military service.

- (2) An employee must be a member of the uniformed services and have orders for a tour of duty. These orders may be in writing or oral, however, the employee should provide the orders in writing when possible.
- (3) For information on Administrative Leave for Military Activity see Section (e)(2)(D).

(g) Liberal Leave

- (1) Employees should be aware that media announcements that liberal leave has been declared for “state” offices do not apply to Judicial Branch operations. When the Chief Judge or the authorized administrative judge declares liberal leave for a specific court or Judiciary office, an employee of that court or office may choose to report to work or to take leave. (Those employees identified by the administrative head as essential employees may be required to report to work when liberal leave is declared.)
- (2) The employee shall advise the supervisor of the employee’s decision to use leave and which of the following types of leave the employee wishes to use:
 - (A) Annual leave;
 - (B) Compensatory leave;
 - (C) Personal leave;
 - (D) Furlough leave or administrative leave, if such leave is available pursuant to an Administrative Order issued by the Chief Judge of the Court of Appeals;
 - (E) Sick leave, if used for the employee’s illness or that of an immediate family member (although the employee will be charged with a chargeable sick leave occurrence if appropriate); or,
 - (F) Leave-without-pay, if all paid leave is exhausted.
- (3) An employee previously scheduled to be on leave for the work day or part of the work day on which liberal leave is declared shall remain on that leave. An employee cannot rescind a leave request that is in saved, submitted, or approved status for the day on which liberal leave is declared. If liberal leave has not been declared and an employee wishes to be off on that day, then the employee must request leave pursuant to whatever leave request requirements are applicable for that work location.

(h) Denial of Leave Not Subject to a Grievance

The decision to deny a request for leave or leave-without-pay cannot be the subject of a grievance action, unless a federal or state statute or duly enacted federal or state regulation entitles an employee to the absence.

(i) Leave Pay-Out

- (1) The State Court Administrator or Chief Judge of the Court of Appeals may determine annually, based upon budget limitations and the availability of funds in each operating budget, whether to allow

eligible employees to cash out any annual or compensatory leave carried over from one leave year to the next that exceeds that allowed by this policy.

- (2) The State Court Administrator or Chief Judge, due to special circumstances or workload demands, can waive the maximum limits on annual and compensatory leave accumulation and carry-over.
 - (3) An employee who separates from service may receive a lump sum payment for the total accrued annual leave pursuant to Section (e)(3)(G), and/or compensatory leave as of the date of separation, less any indebtedness to the Judiciary. The payment will be made at the employee's current rate of pay.
- (j) **Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.
- (k) **Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.
- (l) **Not a Contract:** This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

DEPARTMENT OF HUMAN RESOURCES
4.4.1 JUDICIARY LEAVE BANK GUIDELINES

(a) Purpose and Scope

The Judicial Branch recognizes that employees may suffer from serious and prolonged illnesses that prevent them from performing their duties for extended periods, and that such employees may not have sufficient accrued leave to cover such absences. To minimize the economic impact of these circumstances, the Judicial Branch has established a leave bank program for Employees paid through the State Comptroller who are subject to the leave and personnel policies promulgated by the State Court Administrator (Regular Employees).

These guidelines do not apply to the following entities organized within the Judicial Branch and their respective employees: the Registers of Wills, the Orphans Courts, the Circuit Courts (*not including the Clerks' Offices as those employees are paid through the State Comptroller and are covered by personnel policies promulgated by the State Court Administrator*), the Attorney Grievance Commission, and the Client Protection Fund.

These guidelines also do not apply to the Clerks of Court, Contractual and Temporary Employees, Judges, and judicial Law Clerks.

(b) Not a Contract or Entitlement

This guideline does not create a contract or an entitlement to receive leave from the leave bank, even if the employee is entitled legally to a leave of absence. The decision to grant leave from the leave bank is made at the discretion of the State Court Administrator or designee, and is not contingent upon or required by an employee's legally protected absence.

(c) Denial of Leave from the Leave Bank Not Subject to a Grievance Action

Pursuant to subsection (b), an employee enjoys no entitlement to receive leave from the leave bank. The decision to grant leave from the leave bank is made at the discretion of the State Court Administrator or designee. As such, the decision is final and not subject to a grievance action or other administrative appeal.

(d) Employee Responsibility

Employees are required to manage their own leave in accordance with Judiciary leave policies and to anticipate when their earned leave will be exhausted.

Leave from the leave bank will not be applied retroactively.

An exception may be made if the absence is the result of an unforeseen documented medical emergency experienced by the employee that prevented the employee from requesting leave in advance of its use. Except in such an emergency, leave will not be applied retroactively to cover absences occurring prior to the date the employee's Administrative Head receives all completed paperwork and sufficient medical documentation.

(e) Definitions

(1) Administrative Head

- (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
- (B) For each Circuit Court Clerk's office, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
- (C) The Chief Judge of the District Court for employees of that Court, the Chief Clerk, or the Administrative Clerk or Administrative Commissioner for all employees under his or her supervision;
- (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
- (E) For specified Units organized within the Judicial Branch, the head of the Unit where the employee works; or,
- (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.

(2) Judiciary Human Resources Department (JHRD) – The administrative unit within the Administrative Office of the Courts responsible for the interpretation of these guidelines.

(3) Leave Year – A period of time beginning with the first day of the first complete pay period of a calendar year and ending with the last day of the pay period that includes December 31 of that calendar year.

(4) Regular Employee – For purposes of this policy, an employee holding a position funded under an approved budget, paid through the Central Payroll Bureau of the Comptroller, and having an assigned Position Identification Number (PIN). This does not include Clerks of Court, Contractual and Temporary Employees, Judges, and judicial Law Clerks.

(5) Unit – The State Board of Law Examiners, the Maryland State Law Library, the

(f) Eligibility and Usage

(1) Eligibility

- (A) Regular Employees may be eligible to receive leave from the Judiciary leave bank, if the following criteria are met:
- (i) The employee has successfully completed both six months of service under the supervision of one or more of the Administrative Heads and the initial probationary period, if one is required;
 - (ii) The employee has exhausted all other available paid leave (annual, personal, sick and compensatory leave);
 - (iii) The employee was rated meets standards or better on the employee's most recent annual performance evaluation;
 - (iv) The employee has not been subject to disciplinary action within the past 12 months;
 - (v) The employee has not been subject to a one-day medical slip requirement within the past 12 months;
 - (vi) The employee is not on a Performance Improvement Plan;
 - (vii) The employee is a member of the leave bank; and
 - (viii) The employee has not already received from the leave bank, or as donated leave, 320 hours of leave within the past 12 months, or 1040 hours of leave over the employee's career.
- (B) An employee will not be eligible if any of the above criteria is not met.

(2) Usage

- (A) An employee may receive leave from the leave bank to cover the absence of the employee for the employee's serious and prolonged medical condition that: (i) exists at the time the request is made; (ii) qualifies the employee to receive leave under the Family and Medical Leave Act (FMLA) and the employee has not exhausted the allotted 480 hours of FMLA within the 12-month rolling period; and (iii) results in an absence of at least five consecutive work days. An employee who is not entitled to FMLA may receive leave from the leave bank in accordance with paragraph (F).

The leave also may be used for later intermittent absences that are directly associated with the serious and prolonged medical condition for which use of the leave bank was granted initially, for a period not to exceed six weeks. (Example: An employee is absent two weeks due to injuries suffered in an automobile

accident. The employee receives leave from the leave bank for that absence. The employee returns to work but needs to attend physical therapy twice a week during work hours to treat the injuries. The employee may use leave from the leave bank for the therapy sessions for a period not to exceed six weeks. Otherwise, the leave is not to be used for absences of less than five consecutive work days).

- (B) An employee requesting leave from the leave bank shall submit medical documentation substantiating the employee's serious health condition, inability to work and expected return to work date.

The documentation shall include: medical provider's name, address, telephone number and signature; information that supports the absence (including the ICD and CPT codes); date of commencement of absence; an anticipated return-to-work date (except in situations described in (E) below, an anticipated return-to-work date is a prerequisite for receiving leave from the leave bank); and the ability of the employee to perform the essential functions of the job upon the employee's return to work.

- (C) A determination of whether the medical documentation sufficiently substantiates that the employee has a serious and prolonged medical condition that prevents the employee from working and whether the employee will be able to return to work upon recovery shall be made by the JHRD, in consultation as needed with the State Medical Director.
- (D) If the employee fails to satisfy any of the above criteria, including providing an anticipated return-to-work date, the employee shall be denied the use of leave from the leave bank.
- (E) An exception may be made to the anticipated return-to-work date requirement if the employee has submitted an application for disability retirement benefits and is awaiting an award of such benefits. In such cases, the Director of the JHRD, or the State Court Administrator for employees within the AOC, may grant leave from the leave bank to include only enough hours to cover the employee's retirement contribution and the employee's portion of his or her health benefits each pay period pending a decision on the application for disability retirement. The leave bank approval will cease once a decision on eligibility is rendered unless, at that time, the employee provides an anticipated return-to-work date and has not exhausted the limits in (g).
- (F) A leave bank approval may be granted if the employee presently is not entitled to FMLA only under the following conditions:
 - (i) An approval may be granted for a serious and prolonged medical condition

that continues to prevent the employee from performing his or her essential functions. The JHRD may consult with the State Medical Director in making this determination;

- (ii) The approval will authorize sufficient hours to cover only the employee's retirement contribution and the employee's portion of his or her health benefits for each pay period during the covered absence;
- (iii) The yearly and career usage limits still apply; and,
- (iv) The JHRD may provide guidance and assistance to the employee in applying for disability retirement benefits.

(g) Limits

The cumulative amount of leave an employee may receive from the leave bank, when added to that already received, may not exceed 320 hours within the last 12 months or 1,040 hours for the employee's career. These amounts include any leave from the leave bank and employee-to-employee leave donations previously received from the Judiciary Leave Bank and Leave Donation Program, the Executive Branch State Employees' Leave Donation and Leave Bank Program, or similar state program.

(h) Enrollment and Administration

(1) Enrollment in the Leave Bank

- (A) To be a member of the leave bank, an employee must donate to the bank a minimum of eight hours of annual, personal, compensatory or sick leave. There is no requirement that an employee have a minimum amount of leave remaining after making a donation to the bank.
- (B) Membership in the leave bank is for one year, unless the leave in the leave bank is depleted, at which time employees will be notified and given the option of rejoining by donating an additional minimum of eight hours of leave. In this circumstance, employees who have already served the 90-day waiting period for eligibility required in subsection (E) below will not be required to serve another waiting period for eligibility.
- (C) An eligible employee may enroll in the bank during the leave bank open enrollment period, upon notification by the Director of JHRD. To participate, the employee must enroll in the leave bank in the manner required by the JHRD. The employee's leave balance will be adjusted accordingly and the employee will be a member of the leave bank for one year. The membership will commence at the beginning of the next Leave Year and end at the conclusion of that Leave Year, unless an employee has not yet completed both six months of service, and the initial probationary period (if one is required), when the leave bank open enrollment period occurs.

- (D) Employees Who Have Not Yet Completed Six Months of Service or the Probationary Period.

If an employee has not yet completed six months of service and any applicable initial probationary period when the leave bank open enrollment period occurs, the employee may enroll in the leave bank within 10 work days of completing the service and any applicable probationary period requirement. The employee shall donate a minimum of eight hours of leave to enroll. The employee's leave balance will be adjusted accordingly and the employee will be a member of the leave bank for the remainder of the Leave Year for which he or she enrolled. If the employee does not enroll within 10 work days, the employee will be required to wait until the next enrollment period.

- (E) There is a one-time 90-day waiting period for eligibility to withdraw leave from the leave bank for employees enrolling in the leave bank for the first time.
- (F) Membership in the State Employees Leave Bank, or other such program in another unit of state government, does not transfer to the Judiciary Leave Bank. An employee who transfers to the Judicial Branch from another unit of state government where he or she was a member of the State Employees' Leave Bank, or another similar program, will be required to complete six months of service and the initial probationary period, if one is required, before being eligible to enroll in the Judiciary Leave Bank.

(2) Requesting Leave from the Leave Bank

- (A) To request leave from the leave bank an employee shall complete the Medical Certification/ Request for Leave Form and submit the form to the employee's Administrative Head.
- (B) Within five business days of receiving the completed form, the Administrative Head shall forward the form to JHRD and make a recommendation as to whether the employee should be granted leave from the leave bank. The Administrative Head shall also provide sufficient documentation and analysis to support the recommendation.

(3) Granting Leave from the Leave Bank

- (A) As the designee of the State Court Administrator, the JHRD, in consultation with the Administrative Head, will determine, as an exercise of its discretion, whether the employee will be granted leave from the leave bank. For employees within the Administrative Office of the Courts, the State Court Administrator, or his or her designee, will make that determination. The JHRD, or State Court

Administrator or his or her designee, as appropriate, will notify the employee of the decision.

- (B) Notwithstanding an employee's eligibility, the granting of leave from the leave bank is contingent upon the availability of leave in the bank.
- (C) Leave that is granted to an employee and not used shall remain in the leave bank.

(4) Forfeited Leave Placed in the Judiciary Leave Bank

- (A) Accumulated and unused annual leave in excess of the limits set by policy, and any unused personal leave, shall be forfeited by an employee at the completion of the Leave Year. An employee also may be required to forfeit annual or personal leave as a result of a disciplinary action. Leave that is forfeited for these reasons will be placed in the leave bank.
- (B) Upon separation from employment, unused sick leave, personal leave, and unused compensatory leave exceeding 240 hours, will be placed in the leave bank.
- (C) Annual leave and compensatory leave paid out upon separation or for other reasons and sick leave used to supplement an employee's years of service upon retirement are not subject to forfeiture to the leave bank.

(5) Leave Accruals While Receiving Leave from the Leave Bank

An employee continues to accrue sick and annual leave while receiving leave from the leave bank. Such accruals are applied to an employee's absence each pay period prior to applying leave from the leave bank. The accrual rates are reduced if the employee has any leave-without-pay within the pay period. The reduction is proportionate to the amount of leave-without-pay within the pay period.

(6) Restrictions on Use of Accrued Leave

Once approved to use leave from the leave bank, an employee shall not use annual, personal or compensatory leave in a discretionary manner unless that leave is being used in lieu of sick leave. This restriction shall remain in effect for the duration of the approval period.

(7) Apportionment of Leave from the Leave Bank

The total amount of leave from the leave bank may not be sufficient to cover an employee's entire absence. In that event, the Director of JHRD, or the State Court

Administrator for employees within the AOC, may apportion the leave as necessary so that an employee will receive enough wages each pay period to cover the cost of his or her retirement and health benefits contributions during the absence.

(8) Referral for Medical Evaluation

The Judicial Branch reserves the right to refer an employee who has applied for leave from the leave bank for a medical evaluation.

(i) Exceptions

The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to these guidelines.

(j) Interpretive Authority

The Judiciary Human Resources Department is responsible for the interpretation of these guidelines.

DEPARTMENT OF HUMAN RESOURCES

4.4.2 POLICY ON PARENTAL LEAVE

(a) Purpose and Scope

(1) **Purpose.** To provide paid parental leave to qualifying employees following the birth of an employee's child or the placement of a child under 6 years of age with the employee for adoption.

(2) **Scope**

This policy applies to all regular Judiciary employees as defined in this policy.

(b) Definitions

(1) **Administrative Head**

- (A) For the Appellate Courts, the Clerk of the Court for all employee under the Clerk's supervision;
- (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
- (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employee under his or her supervision.
- (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
- (E) For any units, the head of the unit where the employee works; or,
- (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.

(2) **Day** -- An employee's regularly scheduled work day, not to exceed 8 hours.

(3) **Parental Leave** – A paid absence of up to 60 days after the birth of an employee's child for the employee to recover from the birth of the child, to care for the employee's spouse after birth, and to bond with the child; or for the placement of a child under 6 years of age with the employee for adoption. The 60 days of parental leave includes the employee's accrued leave used for this purpose and Judiciary-paid parental leave. Employees are encouraged to plan for life events including retaining sufficient leave to cover such absences. However, if the employee does not have 60 days of accrued leave, Judiciary-paid parental leave will be provided for the portion of the 60 days that is not covered by accrued leave.

(4) **Regular Employee** – For purposes of this policy, an employee holding a position funded under an approved Judiciary budget, paid through the Central Payroll Bureau of the Comptroller, and having an assigned position identification number (PIN). This does not include clerks of court, contractual and temporary employees, judges, and law clerks.

- (5) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

Paid parental leave is to enable an employee to recover from giving birth or to care for the employee's spouse after birth, and to care for and bond with a newborn or a newly adopted child. This leave will run concurrently with Family and Medical Leave, as applicable.

An employee may use up to 60* days (480 hours) of parental leave. Approved parental leave begins with any leave taken for the birth of the child and thereafter up to the maximum of 60 days (480 hours). Approved parental leave begins at any time during the six-month period immediately following the adoption of a child by the employee and thereafter up to the maximum of 60 days (480 hours). If both parents work for the Judiciary, then the two parents may take up to a combined 60 days of parental leave.

An employee's existing alternative work schedule or telework agreement will be suspended until the employee has exhausted parental leave or the 6-month parental leave eligibility period has ended.

**The number of days/hours are prorated for part-time employees.*

(d) Parental Leave

- (1)** An eligible employee must first exhaust all available accrued leave, to include annual, personal, compensatory leave, and sick leave (up to 28 hours of employee accrued sick leave may be retained), prior to using Judiciary-paid parental leave. Any accrued leave used for parental leave purposes will be counted towards the 60-day allotment of parental leave. Up to 28 hours of sick leave accrued by the employee will be held in reserve and will be available to the employee for personal illnesses during the parental leave period or available to use upon the employee's return from parental leave.
- (2)** If the employee's accrued leave totals less than 60 days, the Judiciary shall provide the employee with Judiciary-paid parental leave in order to attain 60 days.

Parental leave may not be used or extended beyond 60 days and six months from the birth of the employee's child or adoption of a child by the employee.

- (3)** An employee must use parental leave in one continuous block of time during the six-month period of eligibility, up to the 60-day limit. An employee shall not use the leave intermittently.
- (4)** An employee will continue to accrue annual and sick leave while using Judiciary-paid parental leave. However, the employee will be required to first use the accrued annual and sick leave (with the exception of 28 hours held in reserve) as parental leave each pay period prior to using Judiciary-paid parental leave.

(e) Requesting Parental Leave

- (1)** An employee shall submit a request for parental leave to his or her administrative head. The request for leave should be submitted at least 60 calendar days in advance of its need, where practicable, and include an estimate of the timing and duration of the leave.
- (2)** The employee may be required to provide documentation to substantiate the request.
- (3)** The Administrative Head may grant a request for parental leave if the employee:
 - (A)** Has submitted the proper request verifying the birth or adoption of the child along with the necessary medical documentation if required.
 - (B)** Has not already exceeded the 60-day parental leave absence period.
 - (C)** The absence will occur within 6 months following the birth of the employee's child or adoption by the employee of a child under 6 years of age.
- (4)** The administrative head may delay the start of the parental leave absence if the time-period requested by the employee for its use poses an operational disruption as determined by the administrative head. However, such delay may not deprive the employee of the full use of the 60-day parental leave absence within the six-month eligibility period.
- (5)** A request for parental leave may be denied if the employee has not submitted the proper request, and medical documentation if required.
- (6)** The administrative head shall render a decision on the request for parental leave within 10 working days of receiving the request.

(f) Interpretive Authority: The Judiciary Human Resources Department is responsible for the interpretation of this policy.

(g) Not a Contract: This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.

(h) Effective Date: This policy will become effective January 2, 2019.

DEPARTMENT OF HUMAN RESOURCES

4.4.3 POLICY ON PANDEMIC FLU AND OTHER INFECTIOUS DISEASES ATTENDANCE AND LEAVE

(a) Purpose and Scope

- (1) **Purpose.** To ensure that the Judiciary has comprehensive, equitable, and scalable human resources (HR) policies that facilitate the containment of pandemic flu or other infectious diseases while supporting Judicial Branch operations and protecting the health and welfare of employees.
- (2) **Scope.** This policy applies to all state-paid Judicial Branch employees except employees of the Register of Wills Offices and the Orphans' Courts.

(b) Definitions

- (1) **Accrued Leave** – Sick, annual, personal, or compensatory leave that an employee has earned at the time of the employee's absence.
- (2) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any units, the head of the unit where the employee works; or,
 - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (3) **Essential Employee** -- An employee whose absence would jeopardize the continuation of essential functions or those positions deemed essential by the Judiciary. An essential employee serves in an essential position that has been officially designated as such, or the position or employee has been designated as such on an ad hoc basis depending on the nature and extent of the emergency or disaster.
- (4) **Flu-like Illness** -- A condition under which a person displays some or all of the following symptoms typically associated with the flu: fever; chills; cough; sore throat; runny nose; body aches; headache; tiredness; diarrhea; or vomiting. Fever is usually described as temperature of 100.4° F (38° C) or greater. Symptoms of flu-like illness occurring during a period of a pandemic flu outbreak will be presumed to be pandemic flu.
- (5) **Health Care Provider** -- A medical doctor authorized to practice medicine or surgery by the state in which the doctor practices, or other person listed in the Judiciary Policy on Leave, Section (b)(9), if authorized to practice in a state and performing within the scope of that authority.
- (6) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

(7) Unit - The Attorney Grievance Commission, the Client Protection Fund, the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

A pandemic flu or an outbreak of other infectious diseases may require special policies and procedures to address the unique challenges presented by such an event. This policy addresses the attendance and leave issues that typically are at issue during a pandemic or other outbreak of an infectious disease. This policy will provide guidance to Administrative Heads, managers, supervisors, and employees on how to navigate those challenges. In addition to this policy, there may be administrative orders or other directives of the Chief Judge of the Court of Appeals, the Chief Judge of the Court of Special Appeals, the Chief Judge of the District Court, Administrative Judges, or the State Court Administrator that could apply.

(d) Procedures

There are many variables associated with a potential outbreak of pandemic flu and other infectious diseases and the possible effects on Judiciary employees and the State. These include how widespread the pandemic flu and other infectious diseases are, the severity of its symptoms and effects, how many people are affected by it, and local variations in the severity. This policy therefore identifies three levels of response to a pandemic flu or other infectious disease outbreak, each of which can be applied to any location of the Judiciary or State (*i.e.*, a county, city, or an individual building) or to the Judiciary as a whole, depending on the level and extent of the effects in a specific location.

The Chief Judge of the Court of Appeals, in consultation with the appropriate Administrative Judge and others as necessary, shall determine the appropriate level of response for a given area.

(e) Levels of Operation During a Pandemic or Outbreak of an Infectious Disease

(1) Level 1 – Normal Operations

(A) This level is marked by a low to moderate level of concern regarding the associated risks with a pandemic flu or disease outbreak, such as the number of pandemic flu and other infectious disease cases the severity of which is equivalent to the normal seasonal flu. During this stage, the number of pandemic flu or other infectious disease cases may increase over time. Although all Judiciary facilities will be open and conducting business as usual, as the outbreak progresses, absenteeism may become noticeable and begin to cause operational concerns. The objectives at this level are to: facilitate Judiciary operations; ensure that employees are appropriately using Accrued Leave; and to ensure that teleworker agreements and deliverables are strictly monitored by supervisors. Administrative Heads should identify Essential Employees, and provide educational and informational material on employee health, including proper hygiene practices to be used in the workplace. Employees should take care of their health by eating right, getting plenty of rest, and getting flu and other appropriate vaccinations.

(B) Employee Attendance

- (i) Employees are expected to report to work as usual unless ill, on approved leave, or as otherwise directed by the Administrative Head or the JHRD
- (ii) The Administrative Head may declare any employee to be an Essential Employee during a pandemic or disease outbreak to ensure that the Judiciary continues to function effectively

and efficiently. In addition, the Administrative Head may require any employee to report to work unless the employee is on an approved sick/medical leave absence.

- (iii) To ensure that operations can continue, the Administrative Head may revoke previously approved use of Accrued Leave.
- (iv) An employee who fails to report to work as expected or directed or to perform assigned duties, unless the employee or eligible family member is ill, will be subject to a disciplinary action, up to and including the termination from employment.
- (v) An Administrative Head may alter an employee's work schedule, work location, or to allow telework pursuant to the Policy on Telework to meet the needs of the Judiciary and to provide service to the citizens of Maryland, or, if necessary, to promote social distancing to prevent or slow the spread of the pandemic flu and other infectious diseases.
- (vi) An employee who reports to work exhibiting symptoms of a Flu-Like Illness or those of other infectious diseases will be sent home using the employee's Accrued Leave or leave-without pay if no leave is available.

(C) Employee Absence

- (i) An employee who is absent due to the employee's own illness or that of an eligible family member may use Accrued Leave pursuant to the Policy on Leave.
- (ii) An employee who stays home because the employee's child's school is closed due to a pandemic or other infectious disease may use Accrued Leave, other than sick leave, with the approval of the Administrative Head if the employee provides documentation from the child's school that the school is closed.
- (iii) An employee who must be absent for one of the reasons under (i) or (ii) and who does not have Accrued Leave or has run out of Accrued Leave during the period of absence, may be placed on leave without pay for the part of the absence not covered by paid leave with the approval of the Administrative Head and/or the JHRD.
- (iv) An employee may return to work after an absence of five (5) to seven (7) days from the onset of a Flu-Like Illness, and after remaining symptom-free and fever-free (without the use of fever reducing medications) for twenty-four (24) hours, without providing medical documentation.
- (v) Employees may be required to provide medical certification upon their return to work on a case-by-case basis.

(2) Level 2 – Flexible Operations

- (A) This level is marked by a moderate level of concern regarding the associated risks of a pandemic flu or infectious disease outbreak, such as a moderate to high level of related cases but with low mortality rates. The number of cases is expected to increase. Judiciary facilities may be open for business as usual, but certain facilities may be closed, and out-of-state travel for employment purposes may be restricted. Some schools may be closed, forcing parents to stay home. Employees must report to their Administrative Head if they have traveled out of the country, and possibly out-of-state, within 14 days prior to or during a declared emergency or disaster involving a pandemic flu or other infectious disease, prior to returning to work from such travel. The Administrative Head shall notify the JHRD of this information to determine if other steps need to be taken.

- (B) The objectives at this level are to: minimize the risks associated with the emergency and to minimize the spread of the pandemic flu or other infectious disease; encourage employees to stay home if ill to avoid the spread of the flu; and to encourage social distancing by relaxing telework requirements where practical to mitigate face-to-face contact where possible.
- (C) The Judiciary will communicate relevant and accurate information to employees regarding any changes in policy or practice.
- (D) **Employee Attendance**
 - (i) Employees are expected to report to work as usual unless on sick leave or other approved leave, or as otherwise directed by the Administrative Head or the JHRD.
 - (ii) The Administrative Head may declare any employee to be an Essential Employee and require an Essential Employee to report to work during a pandemic or disease outbreak to ensure that the Judiciary continues to function effectively and efficiently. In addition, the Administrative Head may require any employee to report to work unless the employee is on an approved sick/medical leave absence.
 - (iii) To ensure that operations can continue, the Administrative Head may revoke previously approved use of Accrued Leave.
 - (iv) An employee who fails to report to work as expected or directed or to perform assigned duties, unless the employee or eligible family member is ill, will be subject to a disciplinary action, up to and including the termination from employment.
 - (v) An Administrative Head may alter an employee's job duties, work schedule, work location, or to allow telework to meet the needs of the Judiciary and to provide service to the citizens of Maryland, or to promote social distancing to prevent or slow the spread of the pandemic flu and other infectious diseases.
 - (vi) Employees with jobs suitable for telework may be allowed or required to telework at the discretion of the Administrative Head, even if there is not a prior telework agreement in place.
 - (vii) An employee who reports to work exhibiting symptoms of a Flu-Like Illness or those of other infectious diseases will be sent home using the employee's Accrued Leave or leave-without pay if no leave is available. In some instances, related to COVID-19, employees who meet conditions described within section (e)(4)(A) of this Policy may qualify for Emergency Paid Sick Leave.
- (E) **Employee Absence**
 - (i) An employee who is absent due to the employee's own illness or that of an eligible family member may use Accrued Leave pursuant to the Policy on Leave.
 - (ii) An employee who stays home because the employee's child's school is closed due to a pandemic or other infectious disease may use Accrued Leave, other than sick leave, with the approval of the Administrative Head if the employee provides documentation from the child's school that the school is closed.
 - (iii) An employee who must be absent for one of the foregoing reasons and who does not have Accrued Leave or has exhausted Accrued Leave during the period of absence, may be placed on leave without pay for the part of the absence not covered by paid leave with the approval of the Administrative Head and/or the JHRD.

- (iv) An employee may return to work after an absence of five (5) to seven (7) days from the onset of a Flu-Like Illness, and after remaining symptom-free and fever-free (without the use of fever reducing medications) for twenty-four (24) hours, without providing medical documentation.
- (v) Notwithstanding paragraph (iv), an employee may be required to provide medical certification upon their return to work on a case-by-case basis.

(3) Level 3 – Emergency Operations

- (A) This level is marked by a high concern for the risks associated with the pandemic flu or other infectious disease outbreak, such as the number of cases or a greater severity of the resulting illness, with the likelihood of increasing mortality rates. Schools will be closed, either throughout the State or in affected areas. Judiciary facilities may be closed to the public, either statewide or in designated areas, such as by county or facility, and out-of-state travel for employment purposes may be restricted. Employees must report to their Administrative Head if they have traveled out of the country, and possibly out-of-state, within 14 days prior to or during a declared emergency or disaster involving a pandemic flu or other infectious disease, prior to returning to work from such travel. The Administrative Head shall notify the JHRD of this information to determine if other steps need to be taken.
- (B) The objectives at this level are to contain the risks associated with the emergency or the pandemic flu or other infectious diseases by: ceasing all non-emergency essential/mission-critical functions; requiring sick employees to remain at home in order to avoid the spread of the pandemic flu or other infectious diseases; instituting on site screenings for employees entering facilities; and, facilitating social distancing by relaxing telework requirements.
- (C) During this stage, only mission-critical functions will continue on-site. Employees who are not required to report to work but who can telework may be required to do so. Employees who are not required to report to work or telework may be placed on administrative leave.
- (D) Employees may be screened at the workplace entrance, and those who exhibit symptoms of Flu-Like Illness or other infectious diseases will not be allowed into the building.
- (E) **Employee Attendance**
 - (i) All Essential Employees, unless on sick leave or other approved leave, may be required to report for work. Other employees also may be required to report as determined by the Administrative Head or the JHRD.
 - (ii) To ensure that operations can continue, the Administrative Head may revoke previously approved use of Accrued Leave.
 - (iii) An employee who fails to report to work as expected or directed or to perform assigned duties, unless the employee or eligible family member is ill, will be subject to a disciplinary action, up to and including the termination from employment.
 - (iv) The Administrative Head may alter an employee's job duties, work schedule, work location, or to allow telework to meet the needs of the Judiciary or to promote social distancing to prevent or slow the spread of the pandemic flu or other infectious diseases. An employee may be required to perform work assignments even though the assigned duties are not within the scope of the employee's classification. An employee may be assigned to work at any location in the State for periods of time other than those normally designated as the employee's regular work hours.

- (v) Employees with jobs suitable for telework may be allowed or required to telework at the discretion of the Administrative Head, even if there is not a prior telework agreement in place.

(F) Employee Absence

- (i) Employees may be placed on administrative leave if the employee's work location is closed, there is no alternative Judiciary location available, and the employee is not allowed, or is unable, to telework.
- (ii) An employee who is absent due to the employee's own illness or that of an eligible family member may use Accrued Leave pursuant to the Policy on Leave.
- (iii) An employee who stays home because the employee's child's school is closed due to a pandemic or other infectious disease may use Accrued Leave, other than sick leave, with the Administrative Head's approval, if the employee provides documentation from the child's school that the school is closed.
- (iv) An employee who must be absent for reasons in paragraphs (ii) and (iii) and who does not have Accrued Leave or has exhausted Accrued Leave during the period of absence, may be placed on leave without pay for the part of the absence not covered by paid leave with the approval of the Administrative Head and/or the JHRD.
- (v) An employee denied entry into the building pursuant to (e)(3)(D) may be required to use the employee's own Accrued Leave or leave-without-pay if no such leave is available. In some instances, related to COVID-19, employees who meet conditions described within section (e)(4)(A) of this Policy, may qualify for Emergency Paid Sick Leave.
- (vi) An employee may return to work after an absence of five (5) to seven (7) days from the onset of a Flu-Like Illness, and after remaining symptom-free and fever-free (without the use of fever reducing medications) for twenty-four (24) hours, without providing medical documentation.
- (vii) Notwithstanding paragraph (vi), employees may be required to provide medical certification upon their return to work on a case-by-case basis.

(4) Leave Provisions Specific to the COVID-19 Virus

- (A) **Emergency Paid Sick Leave (EPSL)** - Employees may be eligible for up to two weeks (80 hours) of paid leave for the following reasons:
 - (i) The employee is subject to a Federal, State, or local government quarantine or isolation order related to COVID-19.
 - (ii) The employee has been advised by a Health Care Provider to self-quarantine due to concerns related to COVID-19.
 - (iii) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
 - (iv) The employee is caring for an individual who is subject to an order as described in paragraph (i) or has been advised as described in paragraph (ii).
 - (v) The employee is caring for his/her son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions. For these situations, extended FMLA for childcare is offered for up to 12 weeks if their child(ren)'s school or facility has been closed due to COVID-19 and they have not exhausted eligibility for FMLA coverage. If selected by the employee, the first two weeks of extended FMLA will be covered under EPSL.

- (vi) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
 - (vii) For reasons (i) through (iii), the employee will receive full pay. For reasons (iv) and (v), the employee will receive 2/3 of his or her pay.
 - (viii) The employee may be required to provide reasonable documentation of the need for EPSL consistent with any regulations issued by the Department of Labor.
 - (ix) An employee who reports to a worksite may not take EPSL intermittently if the leave is taken for any of the reasons specified in (i) through (iv) and (vi). Once the employee begins taking EPSL for one or more of such reasons, the employee must use the permitted days of leave consecutively until the Employee no longer has a qualifying reason to take Paid Sick Leave.
 - (x) Intermittent EPSL for the reason described in (v), or for an employee who is allowed or directed to telework, requires that both the Administrative Head and employee agree to the intermittent leave.
 - (xi) This temporary leave provision will end on December 31, 2020.
- (B) Emergency Family and Medical Leave Expansion Act (FMLA) /Families First Coronavirus Response Act**
- (i) An employee's absence is a qualifying reason for protected leave under the Policy on Family and Medical Leave Act if the employee is unable to work or telework due to a need for leave to care for the employee's child under the age of 18 if the child's school or day care provider is closed due to the COVID-19 health emergency.
 - (ii) To be eligible for the expanded FMLA coverage in (i), the employee must have been employed with the Judiciary (or State) for 30 days; the employee is not required to meet the qualifying requirements described in the Policy on Family and Medical Leave Act, Section (g).
 - (iii) An eligible employee under (i) and (ii) is entitled to use their balance of FMLA leave entitlement (up to 12 weeks) as calculated in the Policy on Family and Medical Leave Act. The law did not extend the 12-week limit for coverage under the FMLA.
 - (iv) Other than paid leave to which an employee may be entitled under Section (e)(4)(A)(v), an employee must use his or her Accrued Leave, other than sick leave, for this purpose.
 - (v) If the employee exhausts Accrued Leave (other than sick leave), the employee will receive 2/3 pay for the remainder of the qualifying absence.
 - (vi) Where foreseeable, an employee should provide notice of the need for such leave to their Administrative Head as soon as is practicable. The employee may be required to provide reasonable documentation of the need for the leave, consistent with any regulations issued by the Department of Labor.
 - (vii) This temporary FMLA expansion will end on December 31, 2020.

(f) Travel Restrictions and Reporting Requirements

- (1)** As stated in Section (e), for workplace safety reasons, travel for employment purposes may be restricted during a pandemic flu or infectious disease outbreak. The Administrative Head may prohibit work-related travel to areas affected by such an event, or from returning to work after traveling to such areas for business or personal reasons until the employee has secured a medical clearance to return to work.

(2) Reporting Requirements

- (A) Employees must report to their Administrative Head if they have traveled out of the country, and possibly out-of-state, within 14 days prior to or during a declared emergency involving a pandemic flu or other infectious disease, prior to returning to work from such travel. The Administrative Head shall notify the JHRD of this information in order to determine if other steps need to be taken.
- (B) Consistent with the Centers for Disease Control’s recommendations, an Administrative Head may send an asymptomatic employee home or require the employee to work from home upon returning from travel to an affected area. Alternatively, an employee may provide medical certification that the employee is able to work and presents no risk to the workplace, in which case, the employee may be allowed to return to the workplace.
- (C) Employees must report to their Administrative Head if they have had close contact with a symptomatic individual, or with a laboratory-confirmed case of a pandemic flu virus or other infectious disease. Close contact is defined by the Centers for Disease Control as “sat on an aircraft within 6 feet (two airline seats) of, or live in the same household as, are an intimate partner of, or are caring for at home,” the symptomatic individual with a laboratory confirmed case of a pandemic flu virus or other infectious disease.
- (D) Employees must report to their Administrative Head having direct contact with infectious secretions of a pandemic flu virus or other infectious disease case (e.g., being coughed on).
- (E) Employees must report to their Administrative Head any voluntary or ordered isolation or quarantine, any laboratory testing or confirmation of a pandemic flu virus or other infectious disease diagnosis, and any symptoms of acute respiratory illness (e.g., fever, cough, difficulty breathing).
- (F) Unless an employee would create an unsafe or unhealthful work environment or is a direct threat to him or herself or others, an employee with a laboratory confirmed case of pandemic flu or other infectious disease may return to work: (1) upon certification by a Health Care Provider that the employee is able to work and presents no risk; or (2) consistent with the guidelines and recommendations issued by the Maryland Department of Health and the Centers for Disease Control.
- (G) The above information will assist in determining whether to allow an employee to return to work or to require the employee to take leave.

(3) Self-Quarantine

- (A) An employee who travels outside the contiguous United States will be **required** to self-quarantine for 14 days prior to returning to work. The employee will be allowed to return to work after the quarantine period if the employee exhibits no symptoms of a pandemic flu or other infectious disease. An employee **may be required** to self-quarantine if the employee has traveled to an affected area within the contiguous United States if deemed necessary by the Administrative Head in consultation with the JHRD.
- (B) The employee is required to use his or her Accrued Leave during the quarantine period unless the employee is able and permitted to telework.

- (C) In lieu of a quarantine, the employee may provide medical certification from a Health Care Provider that he or she does not suffer from the pandemic flu or other infectious disease and does not pose a threat to the workplace.

(g) Policy Not Subject to a Grievance Action

Management’s decisions or action related to this policy do not provide grounds for a grievance.

(h) Interpretive Authority

The JHRD is responsible for the interpretation of this policy.

(i) Exceptions

The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

- (j) Not a Contract:** This policy is not intended to, and does not, create contractual employer obligations with respect to any matter it covers. Nothing contained in this policy is intended to be a guarantee that employment or any other benefit will continue for any period of time. Furthermore, no representative of the Judiciary has the authority to provide such assurances, oral or written, to at-will employees.

DEPARTMENT OF HUMAN RESOURCES

4.5 POLICY ON TELEWORK

(a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to provide guidelines and define qualifications for use of Telework in the Maryland Judiciary. Telework in the Judiciary is a management option, not an employee right. An employee may be allowed to Telework due to an office closing because of inclement weather, in a Judiciary emergency or disaster as declared by the Chief Judge of the Court of Appeals, or on an ad hoc or regular basis as determined by the Administrative Head. This policy, however, does not cover Telework that may be necessary due to an outbreak of a pandemic flu or other infectious disease.
- (2) **Scope**
 - (A) This policy applies to Regular Employees of a Circuit Court or Appellate Court Clerk's office, the District Court, the Administrative Office of the Courts, and Judiciary Units who are paid through the Central Payroll Bureau of the Comptroller and who have completed six months of service and the initial probationary period (if one is required).
 - (B) This policy does not apply to Clerks of the Circuit Courts, Contractual and Temporary Employees, locally funded employees in the Circuit Courts, employees of the Attorney Grievance Commission and the Client Protection Fund, employees of the Register of Wills or the Orphans' Court, and judges.

(b) Definitions

- (1) **Administrative Head:**
 - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the Chief Judge for all other employees, in the appellate court where the employee works;
 - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision, and the County Administrative Judge for all state employees under his or her supervision;
 - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
 - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
 - (E) For any Units, the head of the Unit where the employee works; or,
 - (F) Any person who serves as the authorized Designee, by express written designation, of any of the foregoing persons.
- (2) **Contractual Employee** – An employee whose conditions of employment and compensation are specified in a personal services contract.
- (3) **Designee** - The Administrative Head may designate, in writing or orally, someone to act on his or her behalf in all matters pertaining to this policy. Therefore, any reference in this policy to the Administrative Head also includes his or her Designee.

- (4) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for state employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and orientation services; employee benefits; position classification and salary administration; and employer-employee relations.
- (5) **Main Worksite** – An employee’s usual and customary assigned worksite.
- (6) **Regular Employee** – For purposes of this policy, a state employee holding a position funded under an approved budget and having an assigned position identification number (PIN). This does not include Clerks of Court, Contractual and Temporary Employees, judges, magistrates, and law clerks.
- (7) **Remote Worksite** – An approved worksite other than the employee’s Main Worksite.
- (8) **Telework** – Work performed at a Remote Worksite.
- (9) **Teleworker** – An employee who is approved to Telework by the employee’s Administrative Head.
- (10) **Temporary Employee** – An employee whose condition of employment is not governed by a personal services contract, whose position is not specifically budgeted, and whose period of employment is not to exceed one year from the date of hire.
- (11) **Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

(c) Policy Statement

Telework is to be used only in those situations as described in Section (a)(1). Notwithstanding any other language in this policy, the Administrative Head may require an employee to Telework from home or elsewhere or to physically relocate to another facility in the event of an emergency to ensure continuity of operations for a Judiciary location. In that event, an employee can be required to Telework or to relocate with or without the employee’s consent.

(d) Approving Authority

The Administrative Head will have the final authority to allow Telework in the situations described in Section (a)(1). Pursuant to Section (c), an Administrative Head may require an employee to Telework or to relocate during an emergency.

(e) Evaluation Considerations for Telework

- (1) Administrative Heads, managers, and supervisors will work together to evaluate whether an individual position or an individual employee may be allowed to Telework given the eligibility criteria listed below.
- (2) **Eligibility Criteria.** Eligibility to Telework will be characterized by factors such as, but not limited to:
 - (A) Work which can benefit from quiet uninterrupted work time;
 - (B) Face-to-face interaction with a supervisor, coworkers, the public, and other work resources is not needed or can be scheduled so that the employee is able to adequately perform his or her duties without being present at the Main Worksite;

- (C) Duties and assignments are characterized by clear work objectives that can be accomplished at a Remote Worksite as effectively as at the Main Worksite; and,
- (D) Measurable outcomes should be equivalent to the amount of work expected to be performed if the employee was working at the Main Worksite.

(3) Eligible Employees

- (A) Only those employees identified in Section (a)(2)(A) are permitted to Telework. An exception to allow Contractual and Temporary Employees to Telework may be made pursuant to Section (o).
- (B) Telework involves a commitment by the employee to:
 - (i) be available and engaged in the assigned work during agreed upon work hours;
 - (ii) perform work in a specifically designated location at home or other agreed upon Remote Worksite; and
 - (iii) adhere to all provisions of the Telework agreement.
- (C) Factors that should be considered in determining an employee's eligibility for Telework include:
 - (i) the employee has demonstrated an ability to work independently;
 - (ii) the employee has a history of satisfactory performance, such as a meets standards or above rating on the employee's latest performance appraisal (if applicable) and the employee has not received counseling or a disciplinary action within the last 12 months;
 - (iii) the employee must be accessible by telephone, e-mail, or other agreed upon communication methods during normal work hours;
 - (iv) the employee must forward his or her desktop work phone to the employee's home phone or work or personal cell phone, and must answer or respond to all phone calls and emails as quickly as possible; and
 - (v) the employee must be willing and able to report to the Main Worksite on the day he or she is normally scheduled to Telework if the Administrative Head determines the employee is needed at the Main Worksite that day.
- (D) Employees who Telework are subject to the same performance standards, policies, and applicable laws as they would be when not teleworking.
- (E) Employees are prohibited from teleworking in lieu of taking leave for an illness or other reason.
- (F) A Telework agreement may be rescinded at any time. Advanced notice is not required.

(f) Authorized Expenses and Services

- (1)** The Teleworker must have a telephone and designated workspace with appropriate equipment and supplies to do the assigned work and a reliable internet connection. The Teleworker will have full responsibility for the purchase, loan, repair, or maintenance of the equipment, furnishings, facility, and utilities of a home-based Telework site.
- (2)** In cases where Judiciary equipment, software, or other expenses for home-based Telework or offsite Telework is approved, the employee is responsible for any damage, loss, or other unwarranted costs that occur because of theft, damage, negligence, misuse, or abuse. Such equipment shall remain the property of the Judiciary and shall be returned upon the termination of the Telework agreement.

(g) Telework Sites

- (1) The Remote Worksite must be approved by management and designated as the official workspace during Telework hours.
- (2) Injuries sustained by the Teleworker in a Remote Worksite and in the course of the actual performance of official duties may be covered by the Maryland Workers' Compensation law. In case of injury, the Teleworker or, if this is not possible, a person acting on the Teleworker's behalf, must follow all rules regarding notification and documentation as specified in this law.
- (3) The Judiciary is not liable for any injuries sustained by visitors or damages to the Teleworker's personal or real property at the Remote Worksite.
- (4) Employees are responsible to ensure they have a Remote Worksite that is safe and free from hazards, if the Remote Worksite is not a Judiciary location.

(h) Administration of Telework Agreements

- (1) The Administrative Head shall determine which positions and employees under his or her authority are eligible to Telework, and when an employee will be allowed to Telework pursuant to Section (a)(1). Telework agreements for a regular Telework schedule shall be recorded and approved through the CONNECT system. For other types of agreements, there must be a written record establishing that an employee is approved to Telework on a given day. This record can be a memorandum or an email granting approval, recognizing, however, a written record may not be possible in an emergency situation.
- (2) An employee will not be allowed to Telework if it appears the employee has abused the privileges of Telework or otherwise exhibits deficiencies in performance, conduct, or attendance, or for any other reason as determined by the Administrative Head.
- (3) The Administrative Head may take appropriate disciplinary action against an employee for abusing a Telework agreement or for failing to perform as required when teleworking.
- (4) An employee who was expected to Telework from home on a day when a delayed opening or closing is declared, will be expected to continue to work from home on that day if possible. If the employee is incapable of performing work from home due to the cause for the delayed opening or closing of the employee's Main Worksite, then the employee may be granted administrative leave upon the approval of the Administrative Head.
- (5) The Telework agreement must be reviewed each year during the performance appraisal process and approved or denied by the Administrative Head. The Administrative Head also can choose to review the agreement on a more frequent basis at his or her discretion.
- (6) Failure by an employee to fully comply with the Telework agreement is a violation of HR policy and is subject to disciplinary action, up to and including termination.

(i) Child and Dependent Care

- (1) Teleworking is not a substitute for child or dependent care. An employee shall not act as a caregiver for children or dependents during Telework hours.
- (2) The employee must continue to arrange for child or dependent care as if he or she is working at the Main Worksite.

(3) The above restrictions may be relaxed in an emergency as described in Section (c) of this policy.

(j) Limitations

- (1) Although an Administrative Head has the discretion to approve an employee to Telework, that discretion shall not be exercised in a manner that is contrary to the plain language or intent of this policy nor in any way that negatively affects the operation of the court or office for which the Administrative Head is responsible.
- (2) **An employee is not allowed to Telework more than one day per week.**
- (3) A managerial level employee, as determined by the JHRD, may not have a Telework agreement that allows the employee to Telework on a regular basis.
- (4) An employee cannot simultaneously have a Telework agreement that allows the employee to Telework on a regular basis and an Alternative Work Schedule. An employee may have one or the other, but not both.

(k) Monitoring of a Telework Agreements

- (1) The employee's director, manager, or supervisor shall monitor the work product of an employee who Teleworks. This may include whatever monitoring or work verification measures the director, manager, or supervisor deems appropriate including, but not limited to, formalized work plans for a Telework day, work product logs, telephone logs, check-in/check-out telephone calls or emails, or other such measures that prove the employee was working and producing work as expected on a Telework day.
- (2) The employee must produce a work product in quantity and quality that is acceptable to the director, manager, or supervisor. The work product must not be any less acceptable than that of a similarly situated employee who does not Telework.
- (3) The Administrative Head, in consultation with the employee's management team and JHRD, may rescind a Telework agreement at any time if the work product is insufficient, the Telework option is being mismanaged, or for any other reason the Administrative Head deems appropriate.

(l) Confidentiality

The Teleworker and the Administrative Head shall take appropriate safeguards to secure confidential data and information.

(m) Discontinuation of the Policy

This policy may be discontinued at any time and for any reason at the discretion of the Chief Judge of the Court of Appeals or the State Court Administrator.

(n) Policy is not Subject to a Grievance Action

The allowance or denial of Telework, or management’s decisions, actions, or inactions regarding this policy are not subject to a grievance action.

(o) Exceptions

The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

(p) Interpretive Authority

The JHRD is responsible for the interpretation of this policy.

(q) Not a Contract

This policy does not constitute or create an express or implied contract. It is not intended to, and does not, create contractual obligations with respect to any matter it covers.