

# Vermont Judicial Branch Personnel Policy

Revised 3/98

## TABLE OF CONTENTS

Part I.....	3
Part II.....	4
A.    Responsibilities.....	4
B.    Definitions.....	5
Part III.....	7
A.    Scope.....	7
B.    Classification.....	7
C.    Compensation.....	8
Part IV.....	19
A.    Purpose and Equal Employment Opportunity.....	19
B.    Notification of Vacancy.....	19
C.    Open Recruitment Procedure.....	19
D.    Promotional Recruitment Procedure and In House Recruitment.....	26
E.    Temporary Employees.....	26
F.    Confidentiality.....	29
Part V.....	30
A.    Scope.....	30
B.    Hours of Personnel Staffing.....	30
C.    Employee Work Week.....	30
D.    Holidays.....	30
E.    Annual Leave.....	32
F.    Sick Leave.....	36
G.    Personal Leave.....	43
H.    Military Leave.....	45
I.    Court and Jury Duty.....	46
J.    Leave of Absence Without Pay and Off Payroll Leave.....	47
K.    Civic Duty Leave.....	52
L.    Fire and Rescue Duty.....	52
M.    Leave of Absence for Political Activity.....	52
Part VI.....	54
A.    Policy and Purpose.....	54
B.    Performance Appraisal Procedures.....	54
C.    Probationary Periods.....	54
D.    Unsatisfactory Performance.....	56
Part VII.....	58
Code of Conduct and Employee Discipline.....	58
A.    Scope.....	58
B.    Code of Conduct.....	58
C.    Disciplinary Procedures.....	63
Part VIII.....	77
D.    Grievance Procedure.....	77
E.    Classification Review Procedure.....	82
Part IX.....	87
A.    Reduction in Force.....	87
B.    Employment of Relatives in Non-Statutory State-Paid Positions.....	90
C.    Employee Personnel Files.....	90
APPENDIX C.....	92
APPENDIX D.....	95
I.    PURPOSE.....	95
APPENDIX E.....	100
APPENDIX F.....	104
APPENDIX G.....	106
APPENDIX I.....	109

## **Part I**

### **Purpose and Scope of Personnel Policy**

It is the purpose of the personnel policy of the Judicial Branch of the State of Vermont to set forth personnel practices and procedures to provide a uniform, comprehensive and effective system of personnel administration for employees of the Judicial Branch. This document describes the personnel practices and procedures as approved by the Vermont Supreme Court.

The personnel policy does not apply to Justices of the Supreme Court, Judges of the Family, Superior, District, Environmental and Probate Courts, Assistant Judges, Magistrates, Hearing Officers, Superior Court Clerks and their staff paid by the county, and the Court Administrator unless specifically stated otherwise.

The policy does apply to all other Judicial Branch employees unless specifically stated otherwise. These employees include all employees of the Supreme, District, Family, Probate and Environmental Courts, the Traffic Ticket and Municipal Ordinance Bureau, the Court Administrator's Office, Professional Conduct Board, Board of Bar Examiners, Secretaries to Trial Court Judges and Law Clerks.

## Part II

### Responsibilities and Definitions

#### A. Responsibilities

##### 1. Supreme Court

The Vermont Supreme Court is responsible for the establishment of Vermont Judicial Branch personnel policies and procedures and any modifications to them.

##### 2. Court Administrator

The Court Administrator is responsible for the distributing, implementing, operating, continuing review, and recommending modification of the personnel policy. The primary responsibilities include the following and may be delegated as appropriate and necessary.

- a. Determining that all potential employees meet minimum qualifications as defined in the classification plan.
- b. Ensuring performance is appraised for all covered employees.
- c. Establishing and conducting periodic review of the classification plan.
- d. Maintaining personnel and payroll records.
- e. Authorizing paid overtime beyond the limits established in Part III of this Policy.
- f. Acting as Secretary of the Judicial Branch Grievance Committee.
- g. Approving all suspension and dismissal disciplinary actions.

Other responsibilities are specifically defined within these policies and procedures.

##### 3. Supervisors

The supervisor's responsibilities include but are not limited to the following:

- a. Selecting employees in conformance with procedures established by this policy.
- b. Providing orientation and training to employees as appropriate.
- c. Insuring each position within the supervisor's work group has a current

written job description.

- d. Informing the employees of job expectations and monitoring the employee's performance. Conducting performance appraisals of each employee.
- e. Disciplining employees as necessary and in accordance with established procedures.
- f. Collecting and forwarding to the Court Administrator's Office all personnel transactions such as time reports, hiring decisions, resignations and disciplinary actions.

Other responsibilities are specifically defined within these policies and procedures.

Appendix C contains a list of positions and the designation of a supervisor for the position. Although trial court judges are not designated as supervisors, Appendix C does describe supervisory responsibilities judges are expected to perform for certain positions.

#### 4. Judicial Branch Employees

All Judicial Branch employees shall adhere to the personnel policies and procedures of the Vermont Judicial Branch.

### B. Definitions

**Non-judicial employees** are all state-paid employees except judges, assistant judges, magistrates and hearing officers.

**Non-statutory employees** are all state-paid employees except judges, magistrates, hearing officers, superior court clerks, and the Court Administrator.

**Management employees** are the Court Administrator, the Director of Administrative Services, the Director of Judicial Operations, the Deputy Clerk of the Supreme Court, the Director of Research and Information Services and all program managers.

**Program Managers** are the Administrative Judge for Trial Courts, Probate Judges, District, Family and Superior Court Managers, Chief Hearing Officer and Director of the Traffic and Municipal Ordinance Bureau, the Chief Trial Court Law Clerk, and Finance Manager.

**Professional employees** include employees whose position classification title is Law Clerk, Court Reporter, Judicial Educator, Personnel Administrator, Automated Systems Specialist, Judicial Operations Manager, General Counsel and Bar Counsel of the Professional Conduct Board, and Staff Attorney.

**Non-management employees** are all state-paid non-statutory employees who are not listed above.

An employee's **immediate family** shall be the employee's father, mother, spouse, son, daughter, brother, sister, stepchild, ward of the employee who lives with the employee, foster child, grandparent, grandchild or spouse's immediate family or any person residing with the employee.

**Trial Court employees** are non-judicial employees of the Superior, District, Family, Environmental and Probate Courts, and the Traffic and Municipal Ordinance Bureau.

## **Part III**

### **Classification and Compensation Plan**

A. Scope

Positions included in the classification plan are all non-management state paid employees of the Judiciary.

B. Classification

1. Classification Plan

The Court Administrator shall choose a classification methodology and prepare and maintain a classification plan for all non-management state-paid employees based on the analysis of a position's duties and the responsibility, skill and effort required to perform the duties as a satisfactory level. The plan shall group positions that have common characteristics and assign them to a class. For each class, a title shall be assigned, a general position description prepared, minimum hiring qualifications established and a standard proficiency test applied. The classification methodology for the Judiciary will be based on the Willis Classification System used in the Executive Branch. The Judicial Branch classification plan is found at Appendix A.

2. Review and Update of the Classification Plan

Periodically the Court Administrator shall review the classification plan to ensure positions are assigned to the proper class.

3. Reclassification

If a significant change occurs in a position that alters its duties or responsibilities, the Court Administrator, supervisor or employee may request in writing that a classification review of the position to ascertain if it is assigned to the proper class. The Court Administrator shall establish a classification committee of Judicial Branch employees to be chaired by the Director of Administrative Services to review requests for reclassification. The Director of Administrative Services shall preside over meetings of the committee relating to policy, training and procedures but shall not participate on any review panels or when the committee meets as a whole under Part VIII, Section B.2. of this policy. The Personnel Administrator, who shall be a member of the committee, shall designate a panel of three committee members to conduct the classification review. The panel shall review the classification material and make a recommendation in writing to the Court Administrator within 60 business days of the request. The employee may appeal this decision by using procedures set forth in the "Classification Review Procedure," Part VIII, Section B of this Policy.

C. Compensation

1. The compensation plan for state employees is established by the General Assembly. The plan has 28 pay grades, each pay grade has 15 salary steps. It is the policy of the Judicial Branch to follow the pay plan by establishing pay grade equivalents to coincide with the compensation plan approved by the General Assembly. The Court Administrator shall assign each class established in the Judicial Branch classification plan to a pay grade equivalent. The positions shall be assigned to pay grade equivalents based on responsibility, prevailing salary rates for similar positions, and other pertinent information.
2. Hiring Rates
  - a. New employees - Employees new to Vermont State Government shall be hired at Step 1 of the pay grade equivalent to which the position class is assigned except as provided for by 2.e.
  - b. Employees from other state agencies - employees who are transferring from permanent positions in other state departments shall be treated as if they were transferring between positions within the Executive Branch.
    - 1) If the Judicial Branch position's pay grade equivalent is greater than the pay grade of the employee's Executive Branch position, the employee shall start at the step within the new pay grade equivalent that guarantees at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades but never lower than Step 2.
    - 2) If the Judicial Branch position's pay grade equivalent is equal to the employee's Executive Branch pay grade, the employee shall be assigned to the same step that the person was assigned in the Executive Branch.
    - 3) If the Judicial Branch position's pay grade equivalent is lower than the employee's Executive Branch pay grade, the employee shall receive the end of probation salary level of the Judicial Branch position. If the Court Administrator determines the employee's Executive Branch experience will contribute to the employee's ability to perform effectively in the new position, the employee may be slotted on a step in the pay grade that exceeds Step 2, but does not exceed the employee's present salary. In no case may an employee's salary exceed the maximum salary step of the pay grade equivalent.
  - c. Re-employment - A permanent employee in good standing who has voluntarily terminated employment from the Judicial Branch or left due to a

reduction in force shall have salary restoration rights for two years after the separation. Salary restoration depends upon the relevance of experience gained in the previous position to the new position and the degree of responsibility of the previous position as compared to the new position. The maximum restored salary is defined as the salary at the time of termination plus any salary adjustment to which an employee would have been entitled, unless specifically excluded by the Legislature, had the employee remained employed with the Judicial Branch in the same pay grade equivalent. If a person's maximum restored salary falls in between steps in the pay grade equivalent, the maximum restored salary shall be the higher step. However, in no instance may a re-employed person's salary exceed the maximum salary step of the new position's pay grade equivalent.

- 1) Hiring rate where the new position is at a higher pay grade equivalent - If the person's previous experience warrants, the starting salary shall be the step within the new pay grade equivalent that guarantees at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades over the employee's maximum restored salary or step 2 of the new pay grade equivalent, whichever is greater.
  - 2) Hiring rate where the new position is at the same pay grade equivalent - If the person's previous experience warrants, the person's starting salary shall be the maximum restored salary.
  - 3) Hiring rate where the new position is at a lower pay grade equivalent - The person's starting salary shall be Step 2 of the new pay grade equivalent. If the person's maximum restored salary is greater than Step 2, depending on the person's previous Judicial Branch experience, the Court Administrator may establish a starting step above Step 2, but not to exceed the person's maximum restored salary.
- d. Temporary employees - The entrance salary for temporary employees shall be the minimum hourly rate for the pay grade equivalent assigned to the position except in extraordinary circumstances as approved by the Court Administrator. If the temporary employee will not be performing the same duties as performed by the incumbent or previous employee, the Court Administrator may assign the temporary employee to a different pay grade equivalent. If the temporary employee is not filling an authorized position, the Court Administrator shall assign the temporary position to a pay grade equivalent.
- e. Hiring above the minimum salary - In instances of difficult recruitment or extraordinary qualifications of an applicant, the Court Administrator may authorize a starting salary above the minimum of the pay grade equivalent.

- f. Law Clerks - The entrance salary for law clerks shall be established by the Supreme Court.

### 3. Step Movement

Advancement through the steps of a pay grade equivalent for permanent employees shall be governed by the time requirements set forth in subsection 3a. below.

- a. **Anniversary Date** - The date on which an employee most recently completed an original probation, or in the case of restored or rehired employees, the date of restoration or rehire. In the case of completion of original probation, the date shall be the actual date of completion rather than the effective date of the associated pay increase. This date will be used initially as the date upon which step increases may be granted in accordance with the compensation plan provisions.

**Step Date** - The date on which an employee moved to a specific pay grade and step.

The required time on each step shall be as follows:

- Step 2 (End of Probation) through 5 - one year
- Step 6 through 12 - two years
- Step 13 through 15 - three years

Movement to a higher step level is predicated on satisfactory performance. Any employee who has been warned under Part VI, Section D of unsatisfactory job performance shall not advance to the next step level until the employee's supervisor has notified the Court Administrator that the employee is performing satisfactorily. The advance to the next step level should occur on the Monday of the first full pay period following the notification to the Court Administrator.

- b. Normally, step movement will take place on the employee's Step Date. The effective date for all pay increases will be the first day of the pay period following the employee's step date.

### 4. Reassignment of Pay Grades Due to Reclassification

A position class may be reassigned to a greater pay grade equivalent due to a reclassification action or an employee may be assigned to a new class at a greater pay grade equivalent due to a classification review. If adequate funding is available, all permanent status employees within the reassigned class or a reassigned permanent status employee to a class with a greater pay grade equivalent shall be slotted into

step 2 of the new pay grade equivalent or into the step in the new pay grade equivalent which will give the employee at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades, whichever is greater. However, no employee may receive a salary that exceeds step 15 of the new pay grade equivalent. All reassignments are effective at the beginning of the next pay period following the date of action. Employees who are still in their original probationary period shall have their salary adjusted to the minimum rate of the new pay grade equivalent. If adequate funding is not available, the reallocation of pay grades shall become effective at the beginning of the first pay period in the next fiscal year. If an employee is reassigned to a higher class within two years of a previous reassignment to a higher class, the employee shall be slotted into the new pay grade at the step that results in a salary increase.

If a position is reassigned to a lower pay grade equivalent as a result of a classification study, all employees within the reassigned class shall be assigned to the step in the new pay grade equivalent which is closest to their current salary without giving the employee a salary decrease. Any employee whose current salary exceeds step 15 of the new pay grade will remain at their current salary. Any subsequent cost of living or merit pay adjustments will be paid as a cash bonus until such time as step 15 salary rate exceeds the employee's salary rate. The employee will then be slotted into step 15. An action of this nature shall not be considered a demotion. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period, movement to a grade higher than the former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

When a reassignment pay raise results in a junior employee receiving a greater salary than a senior employee assigned to the same or a greater pay grade equivalent, the Court Administrator, in the interests of fairness and equity, may adjust the senior employees' salary. For purposes of this section, seniority is based upon total uninterrupted state service, except where the interruption is caused by a reduction in force.

## 5. Promotion

Upon promotion, an employee shall receive a salary increase to the step in the new pay grade equivalent with at least a 5% salary increase or an 8% salary increase if the pay grade is three or more pay grades, or to step 2 of the new pay grade equivalent, whichever is greater. The employee will not receive a salary increase at the end of the promotional probationary period. For purposes of this provision, promotion shall mean the advancement of an employee from the employee's present pay grade equivalent to a higher pay grade equivalent through a change from one position to another position. If the new position is vacant, the pay raise associated with the

promotion should be effective at the beginning of the pay period immediately following the acceptance of the promotion by the employee. If the position is not vacant when the promotion is accepted, the pay raise will occur at the beginning of the pay period immediately following the termination date of the previous incumbent.

6. Lateral Transfer

If an employee transfers from one position in the Judicial Branch to another position in the Judicial Branch at the same pay grade equivalent, the employee shall receive the same salary. The Court Administrator may increase the salary in accordance with 2 e. of this section.

7. Demotion

a. Voluntary demotion

An employee may voluntarily transfer from a position classified at a pay grade equivalent to a new position with a lower grade equivalent. If a voluntary demotion does occur, the person's salary shall be the step 2 salary level of the new pay grade equivalent. If the experience and duties of the employee's previous position contribute to the employee's ability to perform effectively in the new position, the salary may be set at a level greater than the step 2 salary level but not to exceed the employee's present salary. The extent of adjustment above the step 2 salary level will depend upon the relevance of the previous experience to the new position, the degree to which it will aid the employee to become effective in the new position, and the difference in responsibility of the tasks performed in the positions. This may mean that an employee's salary may be between steps in the new pay grade. If this occurs, the employee will be deemed to be the lower step for purposes of salary administration. In no case may the employee's salary exceed the maximum salary step of the pay grade equivalent. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period, movement to a grade higher than the former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

b. Involuntary demotion

An involuntary demotion may occur by either transferring an employee to a lower pay grade equivalent position in the work unit or by reassigning the employee's position to another class with a lower pay grade equivalent as a result of unsatisfactory performance. A reassignment to a lower pay grade equivalent that occurs as a result of a classification study or action shall not

be considered a demotion. An employee who is involuntarily demoted shall have the base salary reduced to the maximum salary step of the new pay grade equivalent or, to the step in the new pay grade equivalent that reduces the employee's current salary by at least 5%, whichever is the greater reduction. In no event shall the salary be reduced to less than the step 2 salary rate of the new pay grade equivalent. For a period of two years following this action, the employee shall have salary restoration rights for any upward pay grade movement up to and including the employee's former pay grade. During this two year period, movement to a grade higher than the former pay grade shall be treated in the same manner as a promotion or classification upgrade depending on the type of action.

8. Original Probationary Period

Upon satisfactory completion of an original probationary period, an employee earning less than the step 2 salary rate for the employee's pay grade equivalent shall receive a salary increase to that step 2 rate. The increase shall be effective at the beginning of the bi-weekly pay period immediately following the date of the completion of the probationary period . If an employee was hired at or above the step 2 salary rate, the employee will not receive an end of probation increase.

9. Alternate Rate Pay

Employees may be specially assigned by the Court Administrator to assume the duties of a position assigned to a higher pay classification than the employee's own. If this occurs and if the position description of the specially assigned employee does not require this special assignment as part of the employee's regular duties, the Court Administrator may approve alternate rate pay for the employee.

The alternate rate pay shall be the step in the new pay grade equivalent that is the promotion rate for the employee under subsection 5. above. For an employee to be eligible for alternate rate pay, the replaced employee's pay grade equivalent must be at least one pay grade equivalent greater than the employee's own. Alternate rate pay will apply only for the duration of the reassignment. At the end of the reassignment period, the employee will return to the employee's normal salary, plus any salary adjustments that would have normally been granted had the employee not been specially assigned. Any salary increase which occurs during the period of special assignment shall be given to the specially assigned person in the same manner as it would have applied to a person holding the position on permanent assignment.

Special assignment justifying alternate rate pay shall occur only when an employee is required by the court Administrator to perform a majority of those duties of the specially assigned position which are substantially different from the employee's own normal duties for a period of twenty (20) or more consecutive working days. If special circumstances warrant, the Court Administrator may approve alternate rate

pay for shorter periods of time. The performance standard of a specially assigned employee shall be the same as that expected of a newly assigned permanent employee during the probationary period.

10. Termination

Any employee who wishes to terminate employment voluntarily with the Judicial Branch must give the supervisor two (2) weeks written notice. The written notice shall indicate the last day the employee will work and the reason for termination. The termination will be effective on the last day of work.

A terminating employee, regardless of the nature of the termination, will be paid for any unused annual leave or unused compensatory time if eligible for cash payment provided proper notice was given in the case of voluntary termination. If insufficient notice is given, the employee's accumulated annual leave shall be reduced by the amount of time that the notice is insufficient. Where circumstances warrant, the Court Administrator may waive the notice provision.

The Court Administrator may withhold the employee's final pay check until all state-owned property which was assigned to the employee has been returned. In the case of an involuntary termination, the employee shall receive two week's notice or two week's pay in lieu of notice. Notwithstanding this provision, an employee may be dismissed without notice or pay in lieu of notice for a violation of a rule which notes that immediate dismissal could result. Regardless of the type of termination, the Court Administrator may require the employee to leave work immediately upon notice of termination. If this is required, it will have no impact on any payments due the employee.

## 11. Overtime and Call-In Pay

### a. Eligibility for Overtime compensation

- 1) Employees designated as management, program managers, or professional employees shall not be eligible for overtime compensation except as stated below:
  - a) Court Reporters shall receive compensatory time of one and a half hours for each hour that they are required by the presiding judge to be at the courthouse on a state holiday, Saturday or Sunday. Court Reporters shall receive compensatory time of one and a half hours for each hour after 5:00 P.M. that they are required by the presiding judge to be at the courthouse. Court recorders are covered under 2) below.
  - b) District or Family Court Managers who are called in after hours to assist a petitioner in a domestic abuse matter shall receive call-in compensation at straight time rates.

- c) Those employees who are not normally eligible for overtime compensation may be eligible to receive compensatory time off for overtime hours worked at the discretion of the Court Administrator or designee.
  - 2) All non-management employees shall receive overtime compensation at the rate of one and one-half times their regular hourly rate for all hours worked excluding hours claimed as sick leave in excess of forty (40) hours in any work week.
- b. Authorization of Overtime
  - 1) No employee will be compensated for work in excess of the employee's normal work schedule unless the work was approved in advance by the judge or the supervisor. Overtime, the use of permanent part-time employees beyond their established work schedule, or the use of temporary employees must have the prior authorization of the Court Administrator or designee unless the supervisor's budget contains money to pay for those purposes. When a jury trial or other court hearing extends past the normal work schedule, judges or supervisors may authorize overtime as necessary to insure the efficient operation of court.
  - 2) All overtime work which has been assigned to an employee by the appropriate authority and is actually worked by the employee shall be compensated either by cash, if eligible for cash compensation under subsection (a), compensatory time, or a combination of the two. Payment will be in cash, but the employee may request compensatory time in lieu of cash. Compensatory time shall be granted at the discretion of the supervisor.
  - 3) No employees may authorize overtime for themselves.
- c. Computation of Overtime
  - 1) The smallest division of an hour to be used in the computation of overtime is fifteen minutes.
  - 2) It is expected that travel between work locations shall be conducted during normal working hours. An employee, who is eligible for overtime compensation and is required by a supervisor to report to and remain at a work location other than the employee's normal work station at a time that would make it impossible for the employee to travel to the work location during normal working hours plus normal commuting time, shall be granted overtime compensation for the additional time required to travel to the work location. Travel time to and from and time attending conferences, conventions, seminars, training courses and related activities will not be considered for

overtime compensation unless specifically approved by the Court Administrator.

- 3) An employee who is required to be "on call" (i.e., required to carry a paging device or leave word with an appropriate authority where the employee can be reached while off duty) shall not be considered as having worked for purposes of computing overtime.
- 4) Hours actually worked, hours on annual leave, compensatory time off, unworked holidays, paid training time and personal leave shall be considered as time actually worked for the purpose of determining eligibility for overtime compensation.

d. Call-In Pay

When a full-time employee eligible for overtime is called in and required to work at any time other than the normally scheduled shift, the employee shall receive compensation at overtime rates for all hours worked. Any eligible employee called in under this section shall receive a minimum of four (4) hours of overtime compensation. If a part-time permanent employee who is eligible for overtime compensation is called in to work at a time outside normal court business hours, the employee shall receive a minimum of four (4) hours of overtime compensation. The overtime rate paid for call in pay shall not be reduced or affected by use of sick leave within the work week.

e. Call-In Pay, Domestic Abuse

With the agreement of the employee, the court administrator may establish a different minimum of compensable time for call-in pay for after hours services provided to persons seeking emergency domestic abuse orders.

12. Compensatory Time

a. Accumulation

- 1) Compensatory time may only be earned for authorized overtime hours worked.
- 2) The amount of compensatory time earned shall be computed at the overtime rate applicable to the employee (See Overtime Section). For employees who are not normally eligible for overtime compensation, authorized compensatory time shall be computed at straight time rates.
- 3) The accrual year for compensatory time accumulation shall be April 1 to March 31.

- 4) No employee shall be allowed to accumulate more than 240 hours of compensatory time. Any subsequent overtime incurred by an employee covered by the Fair Labor Standards Act shall be paid in cash.

b. Use of Compensatory Time

- 1) Compensatory time off may be used and must be authorized in the same manner as the use of annual leave.
- 2) Accumulated compensatory time will not be paid upon termination for employees not eligible to receive cash payment for overtime. Compensatory time that accumulated as a result of worked floating holidays shall be paid at the time of termination.
- 3) Any compensatory time earned during an accrual year ending March 31 must be used within the year following that March 31. If an employee covered by the Fair Labor Standards Act did not use the compensatory time within the time period, the employee will be paid for the unused compensatory time in cash. Employees not covered by the Fair Labor Standards Act will lose any unused compensatory time at the end of the time period. Compensatory time that accumulated as a result of worked floating holidays shall be paid regardless of Fair Labor Standards Act status.

13. Exempt Employee Salary Adjustment Requests

Non-statutory state paid permanent employees who are not within the Judicial Branch=s classification plan may request a salary adjustment from the Court Administrator. Any request for adjustment shall include a detailed justification of the basis for the request.

14. Employee Benefits

The Judicial Branch extends to its permanent employees working the equivalent of twenty (20) hours or more per week the benefits available to all state employees. All employees will be subject to deductions for F.I.C.A. Since the details of these benefits change from year to year, complete information about these benefits is available from the Personnel Administrator at the Office of the Court Administrator. However, permanent employees employed prior to January 1, 1985 who work at least fifteen (15) hours per week and who were receiving benefits shall continue to be eligible for those benefits.

## **Part IV**

### **Recruitment and Selection**

#### **A. Purpose and Equal Employment Opportunity**

It is the purpose of the recruitment process to match the best-qualified people to a job so that the Judicial Branch is able to achieve its goals and objectives effectively and efficiently. The recruitment process is designed to publicize Judicial Branch vacancies to allow qualified applicants within and outside the court system to apply. The recruitment procedure will allow a reasonable time period for applications to be filed.

The Judicial Branch is committed to a policy of equal employment opportunity and the recruitment process is designed to treat all applicants equitably. There shall be no distinctions made on the basis of age, sex, race, color, religion, national origin, sexual preference, or disabilities. The Judicial Branch will make reasonable accommodations to the known physical or mental limitations of an otherwise qualified applicant. Any applicant who believes that he or she has been subject to any discriminatory action must appeal that action to the Court Administrator within five (5) business days from the date of the notification of the action. Notice of this appeal procedure shall be included in the Judicial Branch application form. The Judicial Branch does give preference in the recruitment procedures to ex-service men and women as required in the Vermont Statutes Annotated, Title 20, Section 1543. For purpose of implementing this requirement, a total of 5 points will be added to written test scores of qualified applicants.

#### **B. Notification of Vacancy**

Immediately upon receiving a written notice of termination or when a vacancy occurs for other reasons, all supervisors are required to notify the Court Administrator's Office.

#### **C. Open Recruitment Procedure**

##### **1. Scope**

All permanent non-statutory employees of the Judiciary except trial court law clerks, senior law clerks, and staff attorneys shall be selected through the open recruitment procedure. The hiring of law clerks and staff attorneys shall occur in accordance with the guidelines established in the Vermont Trial Courts Hiring Policy developed by the Law Clerk Advisory Committee and adopted by Lee Suskin and Judge McCaffrey in October 2003; this policy shall be included as an addendum to Part IV of the Judicial Branch Personnel Policy. At their election, these procedures may be used by the Probate Judges to recruit registers and clerks, by Assistant Judges to recruit superior court clerks, and by superior court clerks to recruit deputy clerks.

Temporary employees may be recruited under these procedures if the program manager deems it appropriate due to the nature or duration of the temporary position.

If a current list of qualified candidates exists at the time of the occurrence of vacancy, the Court Administrator may choose to use that list rather than open the position to recruitment.

2. Notice

- a. The Court Administrator's Office shall prepare a recruitment notice for each position to be filled. The recruitment shall include the position's title, the work location, a summary of the position's duties, the minimum education and experience qualifications if applicable, the starting salary, a brief description of employee benefits, the deadline for applying, where application forms are available, the address where the application should be sent, and notice of any testing requirements.
- b. Recruitment notices shall be distributed to all court locations to give present employees an opportunity to apply. The notices shall also be distributed to the Job Service Office, state offices in the recruitment area, local or statewide agencies who advocate for or assist persons with disabilities, and the Department of Personnel.
- c. Vacancies under open recruitment shall be advertised in newspapers in the geographical area of the work location. As local labor market conditions dictate, advertising may be done in newspapers and publications outside the normal recruitment area.

3. Establishment of the Selection Procedure

The Court Administrator shall establish the type of selection procedure to be used for each class of position covered by this procedure. The selection procedure shall include one or more of the following selection devices: an application review to determine whether the applicant meets the minimum educational or experience qualifications, a written examination, performance tests such as typing and shorthand tests, a rating of experience and education, and an interview. The Court Administrator shall periodically review the selection devices to insure that they are not discriminatory and are valid screening criteria for the position.

a. Review of Applications

- 1) For those positions with minimum educational and experience requirements, the Court Administrator or designee shall review the applications received. That person shall evaluate the education and experience the person has listed on the application form to determine if the applicant meets the minimum qualifications for the position. Evaluation of minimum qualifications shall be performed uniformly. All applicants will be notified in a timely manner whether they meet the minimum qualifications. Those applicants who meet the

minimum qualifications will be notified of the next step of the recruitment process.

- 2) Applications which are incomplete or illegible may be rejected. Any application rejected shall be returned to the applicant with an explanation of why the application was rejected.
- 3) Any applicant who wishes to appeal the evaluation as to minimum qualifications must do so in writing within five (5) business days of receipt of notification of rejection. The appeal must state specifically what experience and education the applicant has listed on the application form satisfies the minimum qualifications. The appeal shall be reviewed by the Court Administrator or designee and the applicant notified in writing of the result of the appeal within one week of receipt of the appeal.

b. Written and Performance Tests

- 1) Only those applicants who meet the minimum qualifications for the position will be permitted to take the written and performance test for the position. Written and performance tests will be administered by the Vermont Department of Personnel, Vermont Job Service Offices or persons designated by the Court Administrator. The test location will be determined by considering the work location and availability of space and equipment for the tests. Applicants unable to take the test on the scheduled date may be rescheduled if there is a valid reason why they cannot take the test on the date scheduled. In order to reschedule a test, an applicant must notify the Personnel Administrator no later than the day following the scheduled test date to arrange an alternate test date. The Court Administrator is under no obligation to reschedule test dates if the reason is invalid or the recruitment process would be significantly delayed. Testing conditions will be as uniform as possible for all applicants for the same position.
- 2) Performance test scores are valid indefinitely. Any applicant who has demonstrated proficiency at a particular level (e.g. typing at 40 wpm) will no longer be required to demonstrate that proficiency at a later date for positions with equivalent requirements. Written test scores are valid for as long as the test for which the score was earned is still being used for the position. For standard State of Vermont Department of Personnel tests, the job recruitment notice shall contain the title of the examination and a brief description of its contents. An applicant who has passed the current test being used for the position may use the previous test score if it is still valid or retake the test. If an applicant retakes the test, the new test score will be used. The job recruitment notice will inform applicants of this

option, but it is the applicant's responsibility to notify the Personnel Administrator if the applicant desires to use previous scores.

- 3) The Court Administrator may waive the testing requirements for current Judicial Branch employees or employees who have left Judicial Branch service within two (2) years of the test date. However, waiver may be granted only if the position for which the applicant is applying has substantially the same duties as the position the person holds or held, and the employee is or was in good standing upon termination.

c. Ratings of Experience and Education

Applications for positions that are not screened by a written test will be evaluated by a rating of experience and education. The factors which will be used in this rating and a brief explanation of the rating will be included in the recruitment notice.

d. Determination of the Interview Group

- 1) Upon receipt of the results of the examination or the rating of education and experience, the Court Administrator shall select the interview group. The interview group shall consist of those applicants who met the criteria for the applicable selection devices and whose scores are the highest on the written test or the rating of education and experience. When possible the interview group shall consist of at least five (5) candidates. Any current permanent Judicial Branch employee who passed the examination or rating or for whom the tests were waived shall also be included in the interview group.

Current temporary employees of the Judicial Branch who have satisfactorily performed for four (4) months a Judicial Branch job with the same or similar duties as the duties of the position in recruitment shall be included in the interview group provided that:

- a) the temporary employee meets the educational and experience qualifications; and
  - b) has passed the examination or rating.
- 2) All applicants on the interview group list shall be offered an interview. However, if an applicant cannot reasonably be available for an interview, the interviewer may refuse to make other interview arrangements with the applicant. If an applicant cannot be located, cannot be available, or is no longer interested, those applicants with the next highest test scores may be added to the interview group. If an applicant has been interviewed for a similar job within the past

two years, the interviewer may elect not to re-interview the applicant but must consider the applicant when evaluating the candidates.

e. Interview Procedure

1) Who will interview

- a) The District Court Manager is designated as hiring authority for all positions supervised by the District Court Manager and may use a screening panel to screen candidates for jobs within the District Court. The panel shall recommend up to three names to the hiring authority. Where a screening panel is used, the supervisor must select a candidate recommended by the panel or reject all of the recommendations. Upon selection the hiring authority shall immediately notify the Personnel Administrator at the Court Administrator's Office of the name of the individual selected and the person's starting date.
- b) The Family Court Manager is designated as hiring authority for all positions supervised by the Family Court Manager and may use a screening panel to screen candidates for jobs within the Family Court. The panel shall recommend up to three names to the hiring authority. Where a screening panel is used, the supervisor must select a candidate recommended by the panel or reject all of the recommendations. Upon selection the hiring authority shall immediately notify Personnel Administrator at the Court Administrator's Office of the name of the individual selected and the person's starting date.
- c) The Chief Hearing Officer or designee is designated as hiring authority for all non-judicial positions supervised by the Chief Hearing Officer. The Chief Hearing Officer is responsible to interview for all positions within the Traffic and Municipal Ordinance Bureau and may use an interview panel to screen candidates for jobs within the Traffic and Municipal Ordinance Bureau. The panel shall recommend up to three names to the hiring authority. Where a screening panel is used, the Chief Hearing Officer must select a candidate recommended by the panel or reject all of the recommendations. Upon selection, the hiring authority shall immediately notify the Personnel Administrator at the Court Administrator's Office of the names of the individual selected and the person's starting date.

- d) When the open recruitment process is used for the Probate Court, the Probate Judge of the district where the vacancy exists will be responsible to interview the applicants for the Probate Court positions and hire the successful applicant. The Probate Judge shall notify the Personnel Administrator at the Court Administrator's Office of the name of the individual selected and the person's starting date.
- e) When the open recruitment process is used for a Superior Court Clerk's position, the Presiding and Assistant Judges of the Superior Court where a vacancy for Superior Court Clerk exists shall be responsible to interview the applicants for the position and appoint, with the concurrence of the presiding judge of such court, the successful candidate. The judges shall notify the Personnel Administrator at the Court Administrator's Office of the name of the individual selected and the person's starting date.
- f) For the position of District Court Manager and Family Court Manager the interview panel shall be established by the Court Administrator and shall include, when schedules permit, the presiding judge(s) whose court designation is the circuit where the vacancy exists, and at the discretion of the Court Administrator may include judges who reside in the county or circuit where the vacancy exists. If the judge(s) cannot participate in the interview panel, the judges shall be asked to participate in the interview when the persons recommended by the panel are interviewed by the Court Administrator. The Court Administrator shall make the hiring decision for the position of District Court Manager and Family Court Manager.
- g) For all other positions subject to the open recruitment process, the Court Administrator will appoint an interview panel. After conducting the interview, the interview panel shall make recommendation of up to three names to the hiring authority. The hiring authority may require a second interview. The hiring authority must select a candidate recommended by the panel or reject all of the recommendations. Upon selection, the hiring authority shall notify the Personnel Administrator at the Court Administrator's Office of the name of the individual selected and the person's starting date. The hiring authority for each position shall be designated by the Court Administrator.
- h) Notwithstanding any of the provisions above, the Court Administrator may establish, when appropriate, interview

panels for any position subject to open recruitment procedures other than Probate Court or Superior Court positions.

2) Conducting the Interview

The individual or panel members who interview each applicant shall ask a standard group of questions and may expand on the questions depending on the applicant's response and experience. All interviews for one selection process shall be conducted in as similar environment as possible. The applicants shall also be given a general explanation of the job and the benefits associated with it and be given the opportunity to ask questions.

3) Selection

a) The interview panel or interviewer will consider the following when making recommendations or selection: information provided on the employment application; test scores; education and experience relevant to the position being filled; and the applicant's strengths and weaknesses for the position being filled. The interviewer(s) shall contact prior employers to verify employment and to receive a rating of the applicant's job performance, and shall request the Personnel Administrator of the Office of the Court Administrator to conduct a criminal records check through Vermont Crime Information Center.

b) If the interview panel does not make a recommendation or the interviewer does not make a selection from the interview group, the panel or interviewer may request the Court Administrator to provide the names of other individuals who passed the test but were not included in the original interview group. The Court Administrator may reopen the recruitment process to obtain additional candidates.

4) Notification

Once the hiring authority has made the selection and the offer of employment has been accepted, it is the responsibility of the hiring authority to notify in writing the applicants not hired that the position has been filled.

4. Appointment

a. Upon notification of an acceptance of an offer of employment, the Personnel Administrator of the Court Administrator's Office will put the employee on

payroll and establish a personnel file for the employee. The Personnel Administrator of the Court Administrator's Office will inform the person of Judicial Branch employee benefits.

- b. The supervisor will be responsible for the job orientation program and informing new employees of work rules, job standards, and personnel policies which are applicable to the new employee.

#### D. Promotional Recruitment Procedure and In House Recruitment

##### 1. Promotional Recruitment (In House Recruitment)

The Court Administrator may wish to recruit for a position solely from employees of the Judicial Branch. A judge or supervisor may recommend to the Court Administrator that the promotional recruitment procedure be used for a specific vacancy. If this recruitment alternative is selected, the Court Administrator shall declare that promotional recruitment or in house procedures shall apply and distribute a recruitment notice to all Judicial Branch work locations. The promotional recruitment and in house procedure shall follow the same procedural steps as the open recruitment procedure described in Section C above except that only applications from current Judicial Branch employees shall be accepted. If the position is not filled through this procedure, the Court Administrator shall recruit using the open recruitment procedure.

##### 2. Direct Promotional Appointment

In special circumstances at the discretion of the Court Administrator an employee of the Judicial Branch may be promoted to another position within the Judicial Branch without recruitment, provided the employee meets the minimum qualifications and testing requirement of the new position.

#### E. Temporary Employees

##### 1. Purpose

During the course of business, it may become necessary to obtain additional help for short periods of time. There are generally six reasons for requesting temporary help.

- a. Vacations - to replace an employee who is on annual leave.
- b. Sickness - to replace an employee who is on extended sick leave.
- c. Leave of Absence - to replace an employee who has been granted an extended leave of absence.
- d. Peak or increased workload - to add employees to compensate for an abnormally high workload.

- e. Special assignment - to replace an employee who has been assigned to a special project which prevents that employee from accomplishing the normal duties of the employee's position.
- f. Special project - to add employees for the purpose of accomplishing a special task not normally included in the duties of existing personnel.

These procedures set forth in this section apply to all temporary positions regardless of funding source.

2. Procedure

a. Approval

No temporary employees may be hired without prior approval of the Court Administrator or designee. Prior approval is considered as given to the program manager if there is sufficient money to pay for temporary employees in the program=s budget.

- 1) Vacation or sick leave replacements where the program manager believes additional funding may be necessary - a request for temporary employees should be directed to the Director of Administrative Services. These requests may be made by telephone; however, a written explanation may be required. The Director of Administrative Services will establish the starting and ending dates of employment at the time of approval.
- 2) All other requests for temporary positions where program funding is not sufficient - requests for a temporary position for any reason other than that contained in subsection (1) must be submitted in writing to the Court Administrator. The request should include:
  - a) an explanation of the reason for the request,
  - b) the type of duties which will be performed by the temporary employee,
  - c) the time period for which the position is needed, and
  - d) whether consideration should be given to making the position a permanent position in the future.

b. Recruitment

At the time of approval, the approving authority will designate the recruitment procedure to be followed.

Generally, the recruitment of temporary employees will be at the discretion of the supervisor. Where a position or employee may be made permanent, the open recruitment procedure for permanent positions should be used so the employee can be transferred to permanent status without having to initiate a recruitment.

c. Employment Conditions

The rules governing temporary employment are different from those for permanent employees.

- 1) Salary - each temporary position will be assigned to a pay grade equivalent unless otherwise decided by the Court Administrator. This provision does not apply to salaries established prior to the issue date of this policy.
- 2) Holidays - A temporary employee will not be paid for holidays unless work is actually performed on that day.

- 3) Group Health, Dental, Disability and Life Insurance - No temporary employees will be eligible for the State of Vermont group health, dental, disability and life insurance plans.
- 4) Retirement - Temporary employees are not eligible to join the Vermont State Employees' Retirement System.
- 5) Credit Union - Temporary employees are not eligible to join the Vermont State Employees' Credit Union.
- 6) Rights - Temporary employees do not have job tenure rights. The employee may be dismissed without cause.
- 7) Travel Expenses - Temporary employees will be reimbursed travel expenses at the same rate as permanent employees.

### 3. Exceptions

Exceptions to this procedure shall be made only upon the written approval of the Court Administrator.

### 4. Temporary Service Credit

A permanent status employee, who worked as a temporary employee during the two year period immediately prior to their most recent date of hire as a permanent employee, may request in writing credit for the period of temporary service. The request must be made following successful completion of the probationary period. The employee must have at least 1,000 hours of temporary service in the first year immediately preceding the date of hire. If this time requirement is met, the employee may be eligible for temporary service credit in the 2nd year immediately preceding such date of hire if they have worked at least 1,000 hours of temporary service in such 2nd year. Temporary Service Credit becomes effective the month after the completed application is approved.

### F. Confidentiality

All written applications, supporting documents and written comments relating to the hiring of a person shall be confidential and available only to those involved in the recruitment and hiring process. Upon hiring, the new employee application and documents submitted by the employee during the hiring process shall become part of the employee's personnel file.

## Part V

### Work Week, Holidays and Leave

#### A. Scope

The provisions of section B and C shall apply to all non-judicial state paid employees of the Supreme Court, Court Administrator's Office, District Court, Environmental Court, Family Court, Probate Court, Superior Court, Traffic and Municipal Ordinance Bureau, Boards and Committees and supporting offices. The remaining sections of this part shall apply to all non-statutory state salaried personnel of the Judiciary except for specific employment agreements approved by the Court Administrator.

#### B. Hours of Personnel Staffing

In order to serve the public effectively, it is expected that all full time courts and offices be open to the public during the hours from 8:00 A.M. to 4:30 P.M. Courts, especially those with two or more employees in the clerk's or register's office, are expected to be open during the noon hour for the convenience of the public unless otherwise authorized by the Court Administrator. All courts and offices should post their hours of operation prominently and notify the members of the bar in their jurisdiction. The only part time court is the Essex Probate Court.

#### C. Employee Work Week

The Vermont General Assembly has established 40 (forty) hours to be the standard full time state employee work week. Supervisors of non-statutory employees shall schedule their employees' work hours to ensure courts and offices are open for Judicial Branch business and ensure the full time non-statutory state employees' work schedule is 40 (forty) hours.

District and Family Court Managers shall notify their staff and the presiding judge of short periods of absence from their job. District and Family Court Managers are expected to obtain approval for absence of two weeks or greater from the Court Administrator or designee. Approval of these absences shall not be unreasonably denied. Superior Court Clerks shall notify the Court Administrator and the Administrative Judge of absences of two weeks or greater.

#### D. Holidays

##### 1. Observances of Holidays

- a. The following legal holidays as established by 1 V.S.A. Sec. 371 shall be observed by Judicial Offices:

<b>New Year's Day</b>	January 1
<b>Martin Luther King Day</b>	Third Monday in January, <i>Floating Holiday</i>

<b>Washington's Birthday</b>	Third Monday in February
<b>Town Meeting Day</b>	First Tuesday in March
<b>Memorial Day</b>	May 30
<b>Independence Day</b>	July 4
<b>Bennington Battle Day</b>	August 16
<b>Labor Day</b>	First Monday in September
<b>Columbus Day</b>	Second Monday in October, <i>Floating Holiday</i>
<b>Veterans' Day</b>	November 11
<b>Thanksgiving Day</b>	Fourth Thursday in November
<b>Christmas Day</b>	December 25

Leave without loss of pay shall be granted to each employee on the day after Thanksgiving. The day after Thanksgiving shall not be considered a holiday under 1 V.S.A. Sec. 371 but shall be counted as hours worked for the purpose of determining eligibility for overtime compensation. An employee who is on a regularly scheduled day off on the day after Thanksgiving and does not work that day shall receive compensatory time off instead of normal holiday compensation.

- b. Any legal holiday which falls on a Saturday shall be observed on the preceding Friday. Any legal holiday which falls on a Sunday shall be observed on the following Monday.
- c. Martin Luther King's Birthday, the 3rd Monday in January and Columbus Day, the second Monday in October, shall be designated as "floating holidays." Employees who are assigned to work on the day that would otherwise be observed as the Martin Luther King Day or Columbus Day holiday shall be entitled to choose a day off, including the day of observance or any day thereafter, as a "floating holiday". Use of the "floating holiday" shall be administered in the same manner as the use of compensatory time. An employee may designate with proper approval and with one month's advance notice a day for use as the "floating holiday".
- d. The Chief Justice may declare an administrative holiday in addition to those days designated by 1 V.S.A. Section 371. Judicial Branch offices shall close on such a day except for those operations which must maintain essential services. Time worked on an administrative holiday shall be compensated for in the same manner as time worked on a legal holiday.

## 2. Compensation for Holidays

- a. A permanent employee, including a permanent part-time employee, who is normally scheduled to work on the day a holiday falls, shall receive the regular pay as if the day had been a work day. A permanent employee, including a permanent part-time employee, who is not scheduled to work on the day on which a holiday falls shall receive holiday compensation

proportional to the number of hours he or she is regularly scheduled to work during the pay period (for example, an employee who works half, or 50% or the time but does not work on Thursdays would receive half a day's pay for the Thanksgiving holiday; an employee who works four days a week, or 80% of the time, but does not work Mondays, would receive 80% of a day's pay for Monday holidays).

- b. The effective date of a permanent employee's separation from Judicial Branch service shall be the last workday of actual performance on the job. If it is a calendar day immediately preceding a day observed as a legal holiday, the effective date of separation shall be the workday observed as a legal holiday.
- c. Permanent employees shall receive their regular compensation for legal holidays. Permanent employees required to work on legal holidays except for Town Meeting Day and Bennington Battle Day shall be paid their normal holiday compensation plus one and one-half times their normal hourly rate for each hour worked. Permanent employees required to work on Town Meeting Day, Bennington Battle Day or any administrative holiday declared by the Chief Justice shall be paid their normal holiday compensation plus their normal hourly rate for each hour worked. Permanent employees required to work on the day after Thanksgiving shall receive their normal day's pay plus compensatory time off on an hour for hour basis for each hour worked.
- d. An employee who is off payroll due to disciplinary suspension or is absent without authorization on the scheduled workday or any portion thereof immediately prior to or the next workday following the day observed as a holiday and who does not work on such holiday shall not be eligible for holiday compensation. An employee who is off payroll for any other reason the day before or after a day observed as a holiday shall be eligible to receive holiday compensation.
- e. If an employee scheduled a "floating holiday" in writing at least a month in advance with approval in accordance with the use of compensatory time provisions of this policy and was subsequently required to work on that day, the employee shall be paid normal holiday compensation plus one and one-half times their normal hourly rate for each hour worked. If an employee has earned but not used the "floating holiday" at the time of the employee's termination, the holiday shall be paid as if it were unused compensatory time at the normal holiday compensation.

#### E. Annual Leave

Consistent with the workload requirements of the Judicial Branch, a permanent employee may accrue and use annual leave so the employee may have periods of rest and relaxation from the job for health and well being. Employees are encouraged to request annual leave in

blocks of time sufficient to ensure rest and relaxation. However, annual leave may also be taken in brief amounts for the personal convenience of the employee.

1. Accrual of Annual Leave Credits

- a. Annual leave credits are not accumulated and may not be used during the first six months of employment for an employee in an original probationary period. However, an employee who has completed an original probationary period in state government will be allowed to accumulate annual leave credits upon employment in the Judicial Branch.
- b. A permanent full time employee accrues annual leave as follows:
  - 1) A permanent employee shall be credited with six days, or 48 hours, of annual leave upon completion of the employee's first six months of service.
  - 2) A permanent employee with more than six (6) months but fewer than five (5) years of full time service shall accrue annual leave at the rate of one day per completed calendar month of service, or 3.69 hours per biweekly pay period as of 7/7/96. Total accumulation may not exceed thirty (30) workdays, or 240 hours.
  - 3) A permanent employee with five (5) or more but fewer than ten (10) years of full time service shall accrue annual leave at the rate of one and one-quarter days per calendar month of service, or 4.62 hours per biweekly pay period as of 7/7/96. Total accumulation may not exceed thirty-five (35) workdays, or 280 hours.
  - 4) A permanent employee with ten (10) or more years but fewer than fifteen (15) years of full time service shall accrue annual leave at the rate of one and one-half days per calendar month of service, or 5.54 hours per bi weekly pay period beginning 7/7/96. Total accumulation may not exceed forty (40) workdays, or 320 hours.
  - 5) A permanent employee with fifteen (15) or more years but fewer than twenty (20) years of full time service shall accrue annual leave at the rate of one and two-thirds days per calendar month of service, or 6.13 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty-two and one-half (42.5) workdays, or 340 hours.
  - 6) A permanent employee with twenty (20) or more years, but fewer than thirty (30) years of full time service shall accrue annual leave at the rate of one and three-quarters day per calendar month of service, or 6.46 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty-five (45) workdays, or 360 hours.

- 7) A permanent employee with thirty (30) or more years of full-time service shall accrue annual leave at the rate of two days per calendar month of service, or 7.38 hours per biweekly pay period beginning 7/7/96. Total accumulation may not exceed forty-five (45) workdays, or 360 hours.
- c. A permanent part-time employee earns leave on a prorated basis. For example, an employee with fewer than five years of service who works a half-time schedule earns one-half day of annual leave per month, or 1.85 hours per biweekly pay period beginning 7/7/96; if the employee worked 32 hours or four full days a week, four-fifths day per month, or 2.95 hours per weekly pay period beginning 7/7/96 would be earned.
- d. Except in the instances of reduction in force, or for an employee who left state service in good standing within two years of the rehire date (restored employee), an employee rehired by the Judicial Branch shall not receive credit for prior state service in establishing the employee's rate of annual leave accrual. An employee re-employed after layoff by the Judicial Branch or a restored employee shall receive credit for prior permanent Judicial Branch and state employment in establishing the employee's rate of annual leave accrual. For these employees, credit for prior permanent Judicial Branch and state government service is limited to the last period of continuous state service. An employee with multiple service breaks shall be eligible to have all prior Judicial and State service re-accredited provided that the length of the service break was less than 2 years and all prior service had been restored during the previous employment period. A written request, together with verification of prior service and its restoration must be submitted to the Court Administrator's Office within sixty (60) days of hire. The employee shall not, however, accrue leave credits for the period during which the employee was not on the payroll.
- e. Time spent on leave of absence without pay shall not be counted in determining rates of annual leave accrual.
- f. Upon satisfactory completion of the first six months of employment as a permanent employee, annual leave shall be earned on the basis of a completed pay period of service. A permanent employee shall not be penalized annual leave credit for any pay period during which the employee is off payroll for 20 hours or less. However, an employee who is off payroll for more than 20 hours during a pay period shall not accrue annual leave for that month. This test shall also apply to the accumulated annual leave credited to the employee's account upon completion of the first six (6) months of employment. For example, an employee who was off payroll for more than 20 hours during one pay period of the first six (6) months of employment would be credited with only five and a half (5.5) days of leave upon completion of probation. If the same employee was off payroll for

more than 20 hours during the two different pay periods during the first six (6) months of employment, the employee would only be credited with five (5) days.

- g. An employee rehired after layoff or a restored employee shall accrue annual leave upon completion of the first calendar month of service.

## 2. Use of Annual Leave Credits

- a. Annual leave credits shall not be advanced for use prior to being earned.
- b. A permanent employee granted a leave of absence without pay may use accumulated annual leave before entering upon leave of absence status, or the employee may request that it be retained on account until the employee returns to active duty.
- c. Vacation scheduling is the exclusive prerogative of the supervisor. Leave must be requested in advance by the employee and is subject to approval by the supervisor. The supervisor shall not unreasonably withhold approval of the use of annual leave.
- d. An employee shall not be charged annual leave for absence on a legal holiday or an administrative holiday.
- e. Annual leave accrued by an employee separating from Judicial Branch service shall be paid as a lump sum with the final payment for active service. A separating employee, who has been in an "on payroll" status for all of the employee's scheduled workdays during the final calendar month of employment, shall be entitled to annual leave accrual for that month.
- f. An employee who fails to give two weeks' notice of resignation shall forfeit the number of unused annual leave days by which his notice is deficient, unless the notice requirement is waived by the Court Administrator.
- g. Employees will be charged for annual leave or, at the employee's option, personal leave or compensatory time when they are unable to report or are delayed for work due to weather conditions, impassable roads or other emergency situations. Employees may be allowed to make up missed time within the same pay period at the supervisor's discretion. This provision will not apply to employees who are assigned to work at locations other than their home station.
- h. The supervisor may authorize the use of annual leave on the same day of request. The employee must request use of annual leave within the first hour of work. The granting of the use of annual leave in this manner is totally at the discretion of the supervisor.

- i. The supervisor may retroactively authorize the use of annual leave if the employee did not obtain proper authorization and the circumstances so warrant.

### 3. Responsibilities

#### a. The employee shall:

- 1) Make a timely request for the use of annual leave and receive prior approval for the use of annual leave for vacation or personal convenience.
- 2) Notify the supervisor within the first hour of work, if possible, if the employee is unable to report or will be delayed for work due to weather conditions, impassable roads, or other emergency situations.

#### b. The supervisor shall:

- 1) Make a reasonable effort to schedule vacations in accordance with the wishes of employees consistent with the needs of the court.
- 2) Establish reasonable procedures for requesting use of annual leave.
- 3) Report the use of annual leave to the Court Administrator's Office in accordance with the provisions of this section and the instructions from the Court Administrator's Office.

### 4. Law Clerks

A law clerk shall have twelve (12) days of annual leave for the twelve (12) month term of employment. The law clerk may take annual leave at any time during the year provided the law clerk has the prior approval of the supervising Justice or Judge. Trial Court Law Clerks must also have prior approval of Chief Trial Court Law Clerk for use of annual leave. Upon termination, a Law Clerk shall be paid for any unused annual leave. However, if the Law Clerk terminates early, the twelve (12) days of annual leave shall be reduced one day for each month the clerk terminated early. If, at the time of termination, the Law Clerk used more annual leave than the Law Clerk would actually have accumulated had leave been accumulated at a rate of one (1) day per month of employment, the Law Clerk's final pay check will be adjusted to reflect the over usage of annual leave. All other administration of annual leave shall be the same as it is for other Judicial Branch employees.

### F. Sick Leave

It is the policy of the Judicial Branch to help protect the income of permanent employees when they cannot work due to illness, injury or incapacity for emergency periods when the

employee must be absent from duty due to death or illness in his/her immediate family. Sick leave shall be administered in accordance with the following provisions:

1. Accrual of Sick Leave Credit

- a. A permanent full time employee shall receive sick leave credit as follows:
  - 1) Upon appointment (original or restoration), the employee shall be credited with six (6) sick leave days, or 48 hours, which may be drawn upon during the first six (6) months of service.
  - 2) At the end of the first pay period following the completion of six months of service and at the end of every pay period thereafter, the employee shall be credited with sick leave.
  - 3) An employee with fewer than five (5) years of service shall accrue sick leave at the rate of one (1) workday per calendar month, or 3.69 hours per biweekly pay period beginning 7/7/96.
  - 4) An employee with five (5) or more but fewer than ten (10) years of service shall accrue sick leave at the rate of one and one-quarter workdays per calendar month, or 4.62 hours per biweekly pay period beginning 7/7/96.
  - 5) An employee with ten (10) or more but fewer than twenty (20) years of service shall accrue sick leave at the rate of one and one-half workdays per calendar month, or 5.54 hours per biweekly pay period beginning 7/7/96.
  - 6) An employee with twenty (20) or more years of service shall accrue sick leave at the rate of one and three-fourths workdays per calendar month, or 6.46 hours per biweekly pay period beginning 7/7/96.
  - 7) There shall be no limit placed on the total accumulation of earned sick leave days.
- b. A permanent part time employee earns leave on a prorated basis. For example a part time employee who works a half time schedule earns one-half of the regular accrual per pay period of sick leave; if the employee works four (4) days a week, the employee earns four-fifths of the regular accrual per pay period of sick leave.
- c. When a permanent employee separates from state service, the entire amount of unused sick leave shall lapse. An employee rehired by the state shall not receive credit for prior state service in establishing the rate of sick leave accrual, except in the instance of separation due to reduction in force or an employee who is restored to state service. A restored employee is one who is

eligible for salary restoration under Part III.C.2.(c). A restored employee or employee re-employed after separation due to reduction in force shall receive credit for prior state service in establishing the rate of sick leave accrual. An employee re-employed after separation due to reduction in force shall be credited with the amount of unused sick leave credit at the time of the employee's layoff. Credit for prior state service is limited to the approved service credit determined under Part V. E.1.d). The employee shall not, however, accrue sick leave credits for the period during which the employee was separated from state service.

- d. Time spent on leave of absence without pay shall not be counted in determining the rates of sick leave accrual.
- e. Sick leave benefits may not be used by an employee prior to being credited to the employee's account.
- f. Upon satisfactory completion of the first six (6) months of employment as a permanent employee, sick leave shall be granted on the basis of completed calendar months of service. A permanent employee shall not be penalized sick leave credit for any pay period during which the employee is off payroll less than or equal to 20 hours. However, an employee who is off payroll for more than 20 hours during a pay period shall not accrue sick leave for that pay period.

## 2. Use of Sick Leave

- a. The use of earned sick leave credits shall be authorized by the supervisor for employees who are absent from work and unable to perform their duties because of illness, injury, or quarantine for contagious disease. Employees may request in advance the use of sick leave credits for the employee's and the employee's dependents' medical or dental appointments which cannot reasonably be made outside the employee's normal working hours. As long as the medical or dental appointments do not interfere with the employee's work assignments, the supervisor shall authorize the use of sick leave credits. The time within a pay period used for sick leave shall not count as time worked for overtime purposes. The use of sick leave within a pay period shall not effect overtime compensation paid for call in pay.
- b. The use of sick leave credits may be authorized by a supervisor to permit a permanent employee to be absent from duty due to death or illness in the employee's immediate family. See definition of employee's immediate family Part II.B, page 3. The use of sick leave for this purpose shall normally be limited to ten (10) workdays, which should be sufficient time in which to make funeral arrangements and to attend to family matters, or in instance of family illness, to arrange for continued care of the ill family member. In unusual or special circumstances, the Court Administrator may authorize use

of additional sick leave credits or allow the use of sick leave for instances where the immediate family is not involved.

- c. An employee who has an accumulated sick leave balance shall be authorized its use although recovery and return to duty is impossible. However, periodically, at the request of the Court Administrator, the disability or illness and inability to perform job related duties must be certified to by a licensed physician or osteopath. No sick leave shall be authorized beyond mandatory retirement age under the retirement system (3 V.S.A. Sec. 264).
- d. If a woman is unable to work because of pregnancy, miscarriage, abortion or illness resulting there from, she may use accumulated sick leave credits, under the same conditions which apply to other illnesses and disabilities. If the employee wishes to extend her period of absence beyond the time of physical disability for the purpose of child rearing, she may request use of accumulated annual leave, personal leave, compensatory time off, and/or she may request a leave of absence without pay pursuant to section J. of this Part. A leave of absence without pay may also be requested if the employee does not have sufficient sick leave credit to cover the period of physical disability.
- e. An employee shall notify the supervisor no later than the first hour of the beginning of the scheduled workday of the employee's inability to report to work due to illness unless the employee is physically unable to do so.
- f. The supervisor may require the submission of a certificate from a physician or other evidence to justify the approval of sick leave or to ensure the employee is in good health and is able to perform the job without risk to the employee, co-workers, or the public. The Judicial Branch may require an employee to be examined at state expense by a physician chosen by the Judicial Branch to ensure the employee is fit to return to duty or to determine, in the case of an employee still on the job, the employee's fitness for duty.
- g. An employee who misrepresents a claim for sick leave or shows a pattern of abuse of the use of sick leave shall be subject to disciplinary action including dismissal.
- h. An employee shall not be charged sick leave for absence on a day observed as a legal holiday or an administrative holiday.
- i. If, during a scheduled vacation, an employee becomes ill to the extent that hospitalization is required, the employee's absence from date of hospitalization may be charged to sick leave rather than annual leave. Similarly, if an employee becomes ill during a vacation and is confined at home or temporary residence for three (3) or more days pursuant to a doctor's order, as evidenced by a doctor's certificate, the period of confinement may be charged to sick leave rather than annual leave.

- j. When a permanent employee is awarded weekly compensation under the provisions of the Worker's Compensation Act or by the State Board on State Employee Benefits, the employee may be granted sick leave, or annual leave when sick leave credits are exhausted, to the extent of the difference between such compensation and the employee's regular weekly rate.
- k. The supervisor may retroactively authorize the use of sick leave if the employee did not obtain proper approval and when the circumstances so warrant.

3. Sick Leave Banks

- a. An employee who is unable to perform his or her duties because of an extended, non-job-related, illness or injury of more than ten (10) work days duration, and who has exhausted all accrued sick leave may be allowed to borrow up to ten (10) days of future sick leave accrual, with the approval of the appointing authority or designee. Employees who borrow sick leave shall not accrue additional sick leave until the negative leave balance has been eliminated. Use of other types of accrued leave shall not be unreasonably denied if an employee with a negative sick leave balance is subsequently unable to perform his or her duties because of illness or injury. Any loan unpaid at time of termination of employment will be deducted from the employee's final paycheck.

- b. Long Term Disability Sick Leave Bank

- 1) Purpose

- The Judicial Branch Long Term Disability (LTD) Sick Leave Bank is established for the benefit of non-judicial employees of the Judicial Branch who are absent and unable to perform their duties because of a non-job related, long-term illness or disability, and who have, or will, exhaust all of their sick leave, whether or not the employee has contributed to the bank, or is expected to return to work.

- 2) Eligibility

- Permanent non-judicial employees of the Judicial Branch who have completed their original probationary period, including both full and part time permanent employees, are eligible to donate to the Judicial Branch LTD Bank and to apply for use of sick leave from the Bank.

- 3) Donating Leave

- Non-management personal leave and/or annual leave only may be donated to the Judicial LTD Sick Leave Bank. Employees may donate up to 100% of their personal leave balance, and up to 50% of

their annual leave balance; however, employees must retain the equivalent at least 10 days of annual leave (normally 80 hours).

The Judicial Branch LTD Sick Leave Bank is operated on a continuing basis and an employee may donate leave at any time. There will be at least one formal donation drive each year and additional donation drives may be conducted as needed.

#### 4) Application Process

Employees may apply to the Court Administrator for use of leave from the LTD Sick Leave Bank via applications which shall be available through the Personnel Administrator at the Court Administrator's Office. Employees applying for use of sick leave from the LTD Bank should apply as soon as they have information about the illness, including specific information as to the nature and duration of the illness or disability, and any medical certification that may be available (i.e.: information from a health care provider regarding the diagnosis and/or prognosis). If for any reason the employee cannot disclose the nature of the illness or disability when completing the application for leave from the bank, the employee should contact the Personnel Administrator at the Court Administrator's Office.

Completed applications should be returned to the Personnel Administrator at the Court Administrator's Office, who will forward it to the Court Administrator for a decision. If approved, a memorandum of approval will be sent to the Payroll Division authorizing the use of the additional sick time.

#### 5) Criteria for Applying to the LTD Bank

A long-term disability is defined as a physical or mental condition causing the employee to be unable to perform his or her duties, and resulting in his or her absence from work for more than 30 continuous calendar days. The applicant must have previously exhausted all of his or her sick leave or anticipate exhausting his or her remaining balance during the absence.

Requests are limited to a maximum of 13 weeks, although employees are not limited to one request. Employees are not required to pay back any leave granted from the Sick Leave Bank that they have used. However, employees are required to give back any unused sick leave that has been granted.

Factors considered when reviewing a request for leave time, including but not limited to: years of service, other leave balances, rate of leave accrual, and past leave usage.

6) Confidentiality

The Court Administrator has the right to request specific information relating to the nature and duration of the illness or disability. This information will be kept confidential.

7) Procedure for Confidentiality

No information will be placed in the Employee Personnel File, and there will be no computer records regarding requests for sick leave from the Bank. All information will be kept by the Personnel Administrator in a Sick Bank File, and will be destroyed after a two-year period.

The Sick Leave Bank is administered solely by the Personnel Administrator and the decision making authority rests solely with the Court Administrator. The Court Administrator and Personnel Administrator shall keep all information including names confidential.

4. Responsibilities

a. The employee shall:

- 1) Give the supervisor advance notice of absence due to illness if the employee has advance knowledge of required treatment.
- 2) In other instances, notify the supervisor no later than the first hour of the beginning of the scheduled work day, if possible, of the employee's inability to report to work, and the nature of illness. Trial Court Judges' secretaries must notify the appropriate court managers in their location.
- 3) Notify the supervisor as soon as possible when time off from work is necessitated by a family emergency.
- 4) Obtain a doctor's certificate if requested by the supervisor.

b. The supervisor shall:

- 1) In the instance of extended illness, keep informed as to the employee's physical condition and anticipated date of return to work.

- 2) Ensure that sick leave is not misused, and if necessary, require submission of a doctor's certificate as to the necessity for the leave.
- 3) Report use of sick leave in accordance with the provisions of this section and instructions from the Court Administrator's Office.

5. Law Clerks

A law clerk shall have twelve (12) days of sick leave for the twelve (12) month term of employment. Sick leave shall be used in the same manner as use is allowed for all Judicial Branch employees. If, at the time of termination, a law clerk has used more sick leave than the law clerk would have accumulated had leave been accumulated at the rate of one (1) day per month of employment, the law clerk's final pay check will be adjusted to reflect the over usage of sick leave.

6. Medical Expenses

If, in the performance of duty, an employee is exposed to contagious diseases or to persons who have contagious diseases, or to hazardous materials or chemicals, or is expected to be so exposed, the state will authorize and provide for the necessary medical examinations, inoculations or both at no cost to the employee.

G. Personal Leave

1. Non-management Employees

- a. A non-management employee who in any fiscal three-month period commencing July 1, October 1, January 1 or April 1:
  - 1) Does not use sick leave beyond four (4) hours;
  - 2) Is not off payroll, or on any type of leave of absence without pay or suspension without pay;
  - 3) Completes original probationary period by the end of the three month period:

shall be entitled to ten (10) hours of personal leave. An employee who earns personal leave shall have that time credited to the employee's account at the beginning of the next calendar three (3) month period. The use of personal leave days shall be administered in the same manner as annual leave. Personal leave days must be used in the same fiscal year in which they were credited to the employee's account. In the case of personal leave days earned for the April 1-June 30 period, the day must be used in the July 1-September 30 period. Personal leave days cannot be accumulated from fiscal year except as above, nor are they compensable in cash, or convertible to another form of leave.

- b. In any event, no employee shall be entitled to earn more than forty hours of personal leave per fiscal year under the terms of Section a) above.
- c. Personal leave accrual and eligibility criteria shall be pro-rated, as appropriate for permanent part-time employees.

## 2. Management and Professional Employees and Program Managers

Employees designated by this policy as management and professional employees or program managers except law clerks, shall be entitled to personal leave days as prescribed in this subsection. These provisions also include any other employee classified at pay grade equivalent 21 or above.

### a. Accrual

- 1) Employees who have fewer than five (5) years of continuous state service on any July 1 shall earn three (3) days of personal leave to use during each fiscal year.
- 2) Employees with at least five (5) but fewer than ten (10) years of continuous state service on any July 1 shall earn four (4) days of personal leave to use during each fiscal year.
- 3) Employees with at least ten (10) but fewer than fifteen (15) years of continuous state service on any July 1 shall earn five (5) days of personal leave to use during each fiscal year.
- 4) Employees with fifteen (15) or more years of continuous state service on any July 1 shall earn eight (8) days of personal leave to use during each fiscal year.

### b. Use of Personal Leave

Personal leave shall be taken by the employee at times mutually agreed upon by the employee and the supervisor. Unused personal leave is not compensable in cash, shall not be convertible to other forms of leave, and shall not be accumulated from year to year. The use of personal leave may be authorized retroactively by the supervisor if the employee did not obtain proper authorization and the circumstances so warrant.

## 3. Law Clerks

Law clerks shall have three (3) days of personal leave per year to be used in the same manner as personal leave is used by management and professional employees. Law clerks shall also have two (2) days of personal leave per year for the purpose of seeking employment or continuing education. Any unused personal leave shall lapse

at the end of the year and not carry forward to the next year. If a law clerk terminates prior to the end of the term, personal leave shall be prorated on a percentage basis. The law clerk's final check shall be adjusted to reflect any overuse of personal leave.

## H. Military Leave

### 1. Active Duty for Training

- a. A permanent employee entering the Armed Forces for active duty for training shall be granted a leave of absence without pay for the period of the active duty for training and for training for the employee's military occupational specialty. The employee shall be reinstated to the position provided that:
  - 1) The employee satisfactorily fulfilled the military assignment, and
  - 2) The employee indicated the desire to return to the position upon completion of the active duty training.
- b. A permanent employee returning to work following leave of absence for active duty for training shall be compensated at an amount at least equivalent to the base salary the employee was receiving at the time of departure. A returning employee shall be granted any salary adjustment to which the employee would have been entitled. The employee shall not be entitled to merit increases except as the guidelines relating thereto shall provide, and will not be eligible for the end of probation salary increase until the full probationary period is served.
- c. A permanent employee on leave of absence for active duty for training who returns to state employment in accordance with the conditions outlined above shall have that time counted in computing the total years service for purposes of determining the rate of annual and sick leave accrual and reduction in force rights. However, the employee shall not accrue those leave credits during the period of leave of absence.
- d. A permanent employee on leave of absence for active duty for training may receive service credits in the retirement system by special action of the Retirement Board.
- e. A permanent employee on leave of absence for active duty for training may, at the employee's option, receive cash payment for accrued annual leave upon the commencement of employee's absence. Sick leave credits shall be retained in the employee's account upon the employee's return to active employment.

### 2. Annual Training

A permanent employee who is a member of the Organized Reserve or National Guard shall be allowed military leave with pay at the rate of the employee's minimum compensation for annual training scheduled by military authority in any Federal Training Year - October 1 to September 30 up to a maximum of eleven (11) workdays. A permanent employee who has more than eleven (11) days of field training scheduled in one Federal Training Year shall be entitled to leave without pay for those days in excess of eleven (11), and shall be placed in an off payroll status, unless the employee elects to use accumulated annual leave, compensatory time, or personal leave credits for the period of absence.

A permanent part-time employee shall be granted military leave with pay on a prorated basis.

### 3. Miscellaneous Military Obligations

- a. A permanent employee ordered to take a selective service pre-induction physical examination shall be granted leave with full pay for time necessarily absent for the examination.
- b. A member of the National Guard ordered to duty by the Governor for emergency or other reasons shall receive military pay differential in lieu of the employee's minimum biweekly compensation prorated for each workday involved.

### 4. Inactive Duty Training

An employee shall not be granted leave with pay for any scheduled weekly or monthly training activities nor the "equivalent training" scheduled for the convenience of the employee. However, an employee whose work schedule conflicts with scheduled drills (for example, an employee whose regular work schedule includes Sunday) shall be granted time off either without pay or by use of the employee's annual leave credits, to satisfy military obligations.

### 5. Responsibilities

Each employee shall notify the supervisor as soon as possible of scheduled military obligations and give a copy of the employee's military orders to the supervisor.

## I. Court and Jury Duty

It is the policy of the Judicial Branch to encourage employees to recognize and perform civic responsibilities.

An employee summoned as a witness in court or selected for jury duty shall be excused from work to perform that duty when the employee furnishes to the supervisor timely notice of subpoena or summons. It is the obligation of the employee to notify the supervisor as soon as the employee is notified of the appearance date.

1. Job Related Court Appearances

Attendance at court in connection with an employee's official duties or where the state is a party to the case, shall not be considered absent from work. When an employee appears in court as a witness in connection with official duties, the employee shall be entitled to reimbursement of travel expenses in the same manner as the employee is reimbursed during the normal course of employment. The employee shall not be entitled to witness fees or witness travel expense reimbursement.

2. Non-Job Related Court Appearances

An employee who has been absent from work because of jury duty shall be considered to have worked for the time spent on jury duty and shall receive normal compensation for the time of service. Employees do not have to use accrued leave for this purpose. The employee shall be entitled to receive reimbursement for mileage at the rate established for state employees. An employee who requests annual leave, personal leave, or compensatory time off, to appear voluntarily as a party or as a witness in a civil or criminal action shall be granted time off to the extent that the employee has accrued such leave time.

- J. Leave of Absence Without Pay and Off Payroll Leave

1. Leave of Absence

A leave of absence without pay may be granted to an employee who expects to return to work provided that, in the opinion of the Court Administrator, the leave of absence is for family reasons covered under 21 V.S.A, '470 et seq. or based on a legitimate need and not detrimental to the interests of the Judicial Branch.

- a. Family Leave

- 1) For Medical Reasons

- a) Employee

A leave of absence without pay for medical reasons shall be granted to enable a permanent status employee to recover from an extended illness or injury when the employee's accumulated sick leave has expired. If an employee is requesting a leave of absence for medical reasons, the Court Administrator may request the employee to provide a physician's certificate stating the reason for the medical leave and an estimate of the anticipated length of time the employee would need to recover. All medical leaves must have a definite period of time with an established date for return to duty. The employee should contact the Personnel Administrator at the Court

Administrator's office for information concerning the continuation of benefits (i.e. medical, dental, etc.) for the duration of the leave of absence.

b) Employee's Family

A leave of absence without pay shall be granted for a period not to exceed twelve weeks during any twelve month period to enable a permanent status employee to stay with the employee's family (See Part II.B. Page 3 for definition of family) due to serious illness of or injury to a member of the immediate family or other family emergency. If the employee decides to use paid leave as part of the leave granted under this provision, the employee shall use up to ten days of accumulated sick leave, accumulated compensatory time off, personal leave, annual leave in excess of fifteen (15) days, and accumulated sick leave in that order. For leaves of absence granted under this provision, the total paid and unpaid leave shall not exceed twelve weeks and an employee may not use in excess of six weeks of sick leave during the leave of absence. The Court Administrator may extend the leave without pay within the requirements of c) 5.

2) For Parental Leave:

a) Childbirth

A leave of absence without pay shall be granted under the conditions set forth in this section to an employee during the period of physical disability due to pregnancy, child birth, miscarriage, abortion, or illness resulting there from if the employee has no or insufficient sick leave credit and does not wish to use accumulated annual or personal leave credits or compensatory time off. For those employees with sufficient accumulated sick leave, use of sick leave will be granted for a period up to six weeks following childbirth/delivery and it may be extended for the period of continuing disability by the Court Administrator. The Court Administrator may require a doctor's certificate regarding the continuing disability.

A leave of absence without pay or use of annual leave, personal leave, or compensatory time off, in any combination, shall be granted to an employee for a period up to four months for the purpose of child rearing. The combination of leaves of absence for the period of physical disability due to childbirth and child rearing may not exceed six months without the approval of the Court Administrator. This provision shall pertain to probationary as well as permanent status employees.

b) Adoption

A leave of absence without pay or the use of compensatory time off, personal leave or annual leave shall be granted for a period up to six months during adoption proceedings of a child 16 years of age or younger and for subsequent child care.

3) Short-term Family Leave

Employees shall be entitled to take unpaid leave not to exceed four (4) hours in any thirty (30) day period or twenty-four (24) hours in any twelve month period for the following purposes:

- a) to participate in preschool or school activities directly related to academic educational advancement of the employee=s child, stepchild, foster child, or ward who lives with the employee, such as a parent-teacher conference.
- b) to attend or to accompany the employee=s child, stepchild, foster child or ward who lives with the employee or the employee=s parent, spouse, or parent-in-law to routine medical and dental appointments.
- c) to accompany the employee=s parent, spouse or parent-in-law to other appointments for professional services related to their care and well-being.
- d) to respond to a medical emergency involving the employee=s child, stepchild, foster child or ward who lives with the employee or the employee=s parent, spouse or parent-in-law.

For purposes of taking leave under this section, the employee shall provide the supervisor with as early a notice as possible but, except in the case of an emergency, in no case later than five days. Employees may use accrued annual or personal leave or compensatory time off.

b. Other leaves of absence

- 1) To permit an employee to accept temporary assignment with another unit of government in accordance with the provisions of the Federal Intergovernmental Personnel Act; or
- 2) Any other justifiable reason at the request of the employee and with the concurrence of the Court Administrator.

c. General provisions governing leaves of absence

Unless specifically provided for elsewhere, the following provisions shall apply to all leaves granted under this section.

- 1) Serious illness means an accident, disease or physical or mental condition that poses imminent danger of death; requires inpatient care in a hospital; or requires continuing in-home care under the direction of a physician.
- 2) An employee shall not be granted a leave of absence to accept a temporary or permanent position or to enter into a contractual agreement. The Court Administrator may waive this provision when it is in the best interest of the Judicial Branch.
- 3) An employee granted a leave of absence without pay shall not receive annual and sick leave credits for the period of absence, nor shall that time be counted in determining the rate of annual and sick leave accrual or for other compensation or employee fringe benefits that are based on length of service. The employee shall maintain his or her insurance during this leave of absence by paying the entire premium during the leave except in the instance of a medical leave of absence where the Judiciary will continue to pay the State=s share of the health insurance premium. In the case of leaves of absence for family or parental leave, the employee will only be responsible for the employee's share of the benefits.
- 4) All leaves of absence must be approved in advance and must be for a definite period of time with an established date for return to duty. All requests for a leave of absence must be made in writing and approved in writing by the Court Administrator or designee. The employee or the employee=s designee shall provide reasonable notice to the Court Administrator's Office of the need to extend leave.
- 5) The Court Administrator may grant a leave of absence for a period of more than ten (10) days up to twelve (12) months (see Off-Payroll status below) and may extend the leave of absence under the same conditions not to exceed an aggregate of eighteen (18) months in any five-year period of employment. However, an employee injured on the job and eligible for benefits under Worker's Compensation or from the State Board on State Employee Benefits may be granted leave for up to two years in a five year period.
- 6) An employee granted leave in accordance with the provisions of the Federal Intergovernmental Personnel Act shall be granted leave for a two-year period which may be extended for an additional two years. In the event a conflict arises between the provisions of this policy and the Intergovernmental Personnel Act, the provisions of the Act shall prevail.

- 7) If an administrative leave of absence without pay is granted, the Personnel Administrator at the Court Administrator's Office shall contact the employee to give information concerning the continuation of benefits (i.e. medical, dental, etc.) for the duration of the leave of absence.
- 8) An employee who fails to return from a leave of absence on the scheduled return date shall be considered "absent without leave" and shall be subject to disciplinary action.

An employee who fails to return from a leave of absence, paid or unpaid for five (5) consecutive workdays after a leave is terminated, or a employee who is absent from work for five (5) consecutive workdays without calling in shall be considered to have voluntarily quit. This provision does not prevent discipline for absenteeism.

- 9) Upon return from leave taken, an employee shall be offered the same or comparable job at the same level of compensation, employment benefits, seniority or any other term or condition of the employment existing on the day leave began. This shall not apply if, prior to requesting leave, the employee had been given notice or had given notice that the employment would terminate. This shall not apply if the employer can demonstrate by clear and convincing evidence that:
  - a) During the period of leave the employee's job would have been terminated or the employee laid off for reasons unrelated to the leave or the condition for which the leave was granted; or
  - b) The employee performed unique services and hiring a permanent replacement during the leave, after giving reasonable notice to the employee of intent to do so, was the only alternative available to prevent substantial and grievous economic injury to the operation of the Judiciary.

## 2. Off-Payroll

An employee's supervisor may grant time off payroll for short periods when it is necessary for the employee to be absent from duty and the employee has no accumulated leave credits. Off-payroll time ordinarily cannot exceed ten consecutive workdays. If an employee anticipates being unable to work for more than ten days, the employee must request a leave of absence under the provisions outlined above.

An employee who does not report for work or who is absent from duty during any portion of a workday and who does not have authorization for such absence shall be considered "absent without leave". Any such absence shall be without pay and, in

addition, may be grounds for disciplinary action. However, an absence which is not authorized in advance later may be approved and leave granted retroactively if the circumstances warrant.

An employee shall not accrue annual or sick leave credit for any month during which the employee is off the payroll more than 40 (forty) hours.

An employee who is off payroll on the scheduled workday or portion thereof immediately prior to or following the day observed as a holiday and who does not work on such holiday shall not be eligible for holiday compensation. An employee who is off payroll the day before or after a day observed as a holiday but who works on the date observed as a holiday shall be eligible to receive holiday compensation.

K. Civic Duty Leave

Employees who serve as selectmen, aldermen, village trustees, zoning board members, school board members, or board of civil authority members may, subject to the operating needs of the Judicial Branch, be granted up to three days off per year without loss of pay for the purpose of conducting official business which cannot be accomplished outside the normal working hours. The Court Administrator or his designee must approve in advance the use of civic duty leave.

L. Fire and Rescue Duty

An employee who is a member of a municipal fire department or rescue team reachable within a 30 minute drive from the employee's work location shall, subject to the operating needs of the Judicial Branch, be granted leave without loss of pay or benefits to answer emergency alarms or calls, not drills, within the employee's municipality or outside the employees' municipality as part of a mutual aid call or multiple alarm call or conflagration for which the employee is reasonably available and is called and has so notified the appointing authority to the extent practicable.

M. Leave of Absence for Political Activity

1. Leave of absence to run for office

Subject of the operating needs of the Judicial Branch, and subject to any conflict of interest or any other legal barrier as may be determined by the Attorney General, and subject to the Hatch Act or any other applicable federal law, leave of absence without pay may be granted to run for any public office at the state, national or local level or to act in any such capacity if elected. Leave under this situation must be specifically approved in advance by the Court Administrator and the Chief Justice. No employee shall be discriminated against under this Section based on the employee's lawful political activity.

2. Legislative Leave

To the extent authorized by 21 V.S.A. 496, and subject to any conflict of interest or legal barrier as may be determined by the Attorney General, the Hatch Act or any other applicable federal law, state employees shall be entitled to leave of absence in order to serve in the General Assembly. Leave under this situation must be specifically approved in advance by the Court Administrator and the Chief Justice.

3. Political Activity

An employee shall not use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office. An employee shall not command or solicit in a coercive fashion from any other employee direct or indirect participation in any political activity or enforce or solicit in a coercive fashion contribution for any political party, organization or candidate. An employee shall retain his or her right to vote and express freely his or her opinion on all political subjects. An employee shall not be prohibited from participation in local community activities or from holding public office in the community in which the employee resides, provided that such activity does not conflict with Section 3.01 of the Rules and Regulations for Personnel Administration for the Executive Branch and the Federal Hatch Act.

## Part VI

### Performance Appraisal

#### A. Policy and Purpose

It is the goal of the Judiciary to:

1. Assure communication between supervisors and employees;
2. Promote excellence in job performance; and
3. Be fair and consistent in the treatment of personnel.

As part of achieving this goal the supervisor, using the current job description shall establish areas of responsibility for each position and, with the employee, develop appropriate performance standards for those responsibilities.

#### B. Performance Appraisal Procedures

The Court Administrator shall establish a performance appraisal procedure. The procedure shall insure each supervisor:

1. Establishes reasonable job performance standards for each position;
2. Establishes reasonable measurement criteria of the performance standards for each position;
3. Communicates these standards and measurement criteria to each employee; and
4. Discusses the appraisal results with the employees.

Once the standards are developed and communicated to employees, the supervisor must monitor their performance, and then counsel and guide the employees to optimize performance.

The supervisor will accommodate a reasonable request by an employee for a meeting to discuss any such work deficiency, suggested improvement, or rating or any performance evaluation standard or criterion that the employee considers unreasonable or not achievable.

#### C. Probationary Periods

##### 1. Original Probationary Period

- a. A newly appointed employee shall serve a six (6) month probationary period in the position to which the employee is appointed. Any employee on probationary status may be dismissed at any time during the probationary

period. Dismissal of a probationary employee shall be final and not subject to appeal.

- b. Prior to the end of the probationary period, the supervisor shall evaluate the performance of the probationary employee. The supervisor shall discuss the evaluation with the employee and forward the evaluation to the Court Administrator along with a recommendation to the Court Administrator that the employee become permanent, be terminated, or that the probationary period be extended. Any recommendation for the extension of the probationary period shall include a new termination date of the probationary period and reasons for the extension.
- c. Supervisors are expected to monitor closely the performance of probationary employees and communicate in a timely manner observations of the employee's performance to the employee. Supervisors shall inform probationary employees of unsatisfactory performance and provide the employee assistance in improving performance.

## 2. Promotional Probationary Period

- a. Any permanent status employee promoted or transferred to a position with new duties shall serve a six (6) month probationary period. Any employee on promotional probationary status may be dismissed at any time for failure to perform their duties properly or for any good and sufficient cause. Any employee on promotional probationary status who is dismissed may appeal the dismissal to the Judicial Branch Grievance Committee, Step III of the Judicial Branch Grievance Procedure (Section VIII.A.3.c)), within five (5) business days of the notification of dismissal. If the employee's former position is vacant, the court administrator may, upon the recommendation of the program manager for that position, allow the employee to reassume that position. Any employee dismissed during a promotional probationary period shall have re-employment salary rights to the salary of the employee's former position.
- b. Prior to the end of the promotional probationary period the supervisor shall evaluate the performance of the employee. The supervisor shall discuss the evaluation with the employee and forward the evaluation to the Court Administrator. If the evaluation is satisfactory, the employee shall become a permanent status employee in the new position. If the evaluation is unsatisfactory, the supervisor shall recommend to the Court Administrator that the employee be terminated or that the probationary period be extended. Any recommendation for extension shall include a new termination date of the probationary period and reasons for the extension.
- c. Supervisors are expected to monitor closely the performance of probationary employees and communicate in a timely manner observations of the employee's performance to the employee. Supervisors shall inform

probationary employees of unsatisfactory performance and assist the employee in improving performance.

D. Unsatisfactory Performance

Each supervisor must communicate to employees the duties the employee is to perform and the expected level of performance the employee is to achieve. After achieving permanent status, if an employee is not achieving the expected level of performance, a supervisor shall notify the employee as soon as possible of the deficiencies in the employee's performance. The supervisor has the responsibility and is expected to give reasonable counsel and assistance to an employee to help the employee improve job performance and meet job performance expectations. Employees shall be warned in a progressive manner of poor job performance.

1. .Step I - Oral Warning

This is a means by which the supervisor calls to the attention of the employee that the employee is not performing the job to established standards. The employee must be informed of what standards are to be achieved and when these standards should be achieved. A notation of this warning must be included in the employee's personnel file. If, after two years from date of the warning, no similar performance deficiencies have occurred, the notation of the warning shall be removed from the employee's file.

The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

2. Step II - Written Warning

If the supervisor feels the employee has not responded adequately to the Step I warning, the supervisor may give the employee a Step II warning.

The Step II warning is a formal letter to the employee describing performance deficiencies and what improvement is expected. The Step II warning shall contain a specific date on which a review of the employee's progress toward improvement will occur and the warning shall also notify the employee that, if significant progress has not occurred by the date of review, the employee may be placed on probation. If, after a period of three years from the date of this warning, no similar performance deficiencies have occurred, the warning shall be removed from the employee's file. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

3. Probationary Period

A probationary period shall be established upon recommendation of the supervisor and approval of the Court Administrator for employees who have not significantly improved their performance as a result of a written warning. The probationary period shall have a reasonable final date by which an employee must consistently perform the job to expected standards. If the evaluation of the employee's performance still results in unsatisfactory performance, the employee may be demoted or terminated.

4. Employee Rebuttal and Appeal

An employee shall be allowed to place in their personnel file written rebuttal to a letter of reprimand, warning, counseling or a performance evaluation. Such rebuttal must be submitted within thirty (30) work days after receipt of such adverse personnel action (except in case of a later grievance settlement).

Employees may appeal Step I and Step II warnings to Step II of the Grievance Procedure. Step III of the grievance procedure will be used for appeals of demotion or termination. Employees in their original probationary period shall not have the right of appeal.

## Part VII

### Code of Conduct and Employee Discipline

#### A. Scope

The code of conduct contained in Section B of this Part applies to all non-judicial employees of the judiciary, whether compensated by the State or County, its officers, departments and subdivisions and includes all temporary, permanent and contractual employees, court officers and volunteers unless specifically excluded within a provision. Court employees who are law students, law clerks, interns, attorneys, or members of other professional groups are also bound by the appropriate professional duties of these roles. Section C of this Part applies to all state paid non-statutory employees.

#### B. Code of Conduct

##### 1. Policy and Purpose

A fair and independent court system is essential to the administration of justice in a democratic society. Employment in the court system is a public trust justified by the confidence that the citizenry reposes in the integrity of officers and employees of the judicial branch. Proper conduct by court employees inspires public confidence and trust in the courts, and conveys the values of impartiality, equity, and fairness that bring integrity to the court's work.

It is Judicial Branch policy that a copy of the code of conduct be given to all Judicial Branch employees, whether paid by the state or county, covered by the code, that its purpose and meaning be clearly communicated, that they be consistently and fairly enforced, and that employees disciplined for violating the rules and regulations have an opportunity to appeal such disciplinary actions in accordance with the provisions of the Judicial Branch's employee grievance procedure. For volunteers, contractual and temporary employees a copy of the Judicial Branch Personnel Policy is available at all courts.

##### 2. Responsibilities

###### a. The Court Administrator

Pursuant to Administrative Order #3 of the Vermont Supreme Court, the Court Administrator shall promulgate the code of conduct and may amend existing rules from time to time. The Court Administrator is responsible for ensuring adequate communication and consistent enforcement of all employee work rules and regulations. The Court Administrator shall review and approve disciplinary actions for employees covered by Section C involving suspensions or dismissal for violations of the code of conduct by employees.

b. Supervisors and Program Managers

Supervisors and Program Managers are responsible for:

- 1) Knowing the Judicial Branch's code of conduct,
- 2) Communicating the code of conduct clearly to their employees,
- 3) Exercising the positive leadership necessary to minimize formal disciplinary actions involving their employees,
- 4) Enforcing the code of conduct consistently and fairly for the employees under their direction, and
- 5) Recommending to the Court Administrator changes to the existing code of conduct which might be necessary to better accomplish the overall mission and goals of the Judicial Branch.

In addition, supervisors and program managers who are covered under Section C of this Part have the responsibility and authority to issue Step I and Step II warnings to employees who violate the code of conduct and for recommending suspension and dismissal, as appropriate, to the Court Administrator.

3. Code of Conduct

Listed below is the Judicial Branch employee code of conduct. This list is not exhaustive, but is intended to be illustrative of the professional conduct expected of each employee so that each Judicial Branch employee has a general understanding of the conduct expected and so that the employee will work diligently to accomplish the goals of the Judicial Branch and exercise good discretion when doing so. Violations of some of the provisions of the code of conduct listed are more serious than others. Violations that may result in the employee's immediate discharge regardless of the employee's length of service or work record are specifically noted.

- a. It is the policy of the Judiciary that discriminatory behavior will not be condoned or tolerated. Discriminatory behavior includes any implicit or explicit action or behavior based on race, color, sex, religion, national origin, ancestry, age, disability, marital status, or sexual orientation which adversely affects a person's ability to use the facilities or services provided by the Judiciary. It also includes verbal or written comments or actions which disparage or deride an individual's race, color, sex, religion, national origin, ancestry, age, disability, marital status, or sexual orientation. Discriminatory behavior also includes any actions, either implicit or explicit, which adversely affect an employee's work assignment, work environment, salary, career or promotional opportunities due to race, color, sex, national origin, ancestry, age, disability, marital status, or sexual orientation. Any employee who violates this policy is subject to disciplinary action up to and including dismissal. (See Appendix D for the Sexual Harassment Policy.)

- b. Accurate court records are critical to the prompt and fair administration of justice. No employee shall misuse, falsify or alter court records or remove the records from a court or office without proper authorization.
  - 1) The confidentiality of information that is legally confidential contained in judicial and administrative records must be protected. It is the duty of the employee to protect the confidentiality of manually and electronically stored information. Employees should safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters. Breach of confidentiality of this information or falsifying records may result in immediate dismissal.
  - 2) A former court employee shall not disclose confidential information when disclosure by a current court employee would be a breach of confidentiality.
- c. No employee shall conduct himself or herself in any manner which shall reflect negatively on the Court. Such conduct shall include drinking alcoholic beverages or using illegal drugs while on duty or working while under the influence of drugs or alcohol. A violation of this rule may result in immediate dismissal.
- d. The property and image of the court should be respected. Employees should refrain from the careless, negligent or improper use of the property of the court or the property of the court employees. The theft, misuse, or misappropriation of the funds or property of the court or court employees will not be tolerated and may result in immediate dismissal.
- e. Employees are expected to obey proper authority and to respect the rights of their co-workers. An employee's failure or refusal to comply with a rightful order to accept a reasonable and proper assignment from an authorized supervisor may result in dismissal. If an employee considers an order to be unreasonable, the employee should obey under protest and then bring the matter to the attention of the Court Administrator within five working days. The only exception is an order or instruction that may jeopardize the employee's safety or health, or the employee believes to be unethical or illegal. In that case, the employee should ask for a written order or directive and bring the matter to the immediate attention of the Court Administrator.
- f. Court employees are expected to be courteous and of assistance to the public and furnish accurate information as requested in accordance with established

policy. They should be tactful in the performance of their duties and exercise the utmost patience, impartiality and discretion when dealing with the public.

- g. Every Judicial Branch employee shall avoid conflicts of interest in the performance of professional duties. Even though no misuse of office is involved or intended, conflicts of interest involving Judicial Branch employees can seriously undermine the community's confidence and trust in the Judiciary, therefore, every Judicial Branch employee is required to exercise diligence in becoming aware of conflicts of interests and disclosing those conflicts to the employee's immediate supervisor. Employees who violate this section of the code of conduct may be subject to immediate dismissal. Conflicts of interest include but are not limited to the following:
- 1) No employee shall solicit or accept a fee, gift, or other valuable item in the course of or in connection with the employee's job when a fee, gift or other valuable item has the appearance of being given or is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons by the court. Honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees on their own time and not related to their employment by the Judiciary shall not be deemed a violation of this section.
  - 2) No employee shall use their position to secure special privileges, favors or exemptions for themselves or others.
  - 3) An employee shall not engage in any employment, activity or enterprise which may be determined by the employee's supervisor incompatible, or in conflict with the duties, functions, or responsibilities of the court by which he or she is employed, including but not limited to the following: (NOTE: Some of these may not apply to volunteers.)
    - a) Outside employment with an entity that regularly appears in court or conducts business with the court system, and requires the court employee to have frequent contact with attorneys who appear in the court system; or
    - b) Outside employment which cannot be fulfilled outside the employee's work schedule or is incompatible with the performance of the court employee's duties and responsibilities; or
    - c) Outside employment which involves the practice of law; or

- d) Outside employment which requires or induces the court employee to disclose confidential information acquired in the course of and by reason of official duties; or
  - e) Outside employment within the judicial, executive or legislative branch of government without written consent of both employers.
- h. Every Judicial Branch employee shall during their hours of duty and subject to such other laws, rules, and regulations as pertain thereto, devote his or her full time attention and efforts to the responsibilities of his or her position. Specifically, all employees shall:
  - 1) Report for work promptly and regularly and not leave early;
  - 2) Not be absent from work without proper approval from the supervisor;
  - 3) Meet established standards for quantity, timeliness and quality of work;
  - 4) Behave in a manner that does not disrupt the professional working environment, exercising self-control, even under provocation, and refraining from practical jokes, fighting, horseplay, offensive language, or other conduct which is offensive to other employees; and
  - 5) Work consciously to accomplish the goals of the court and refrain from the misuse of work time.
- i. The dress, personal hygiene and appearance of judicial employees must be in conformance with accepted community standards, reflect positively on the court, and be appropriate when due consideration is given to the employee's duties.
- j. Political activity:

An employee as defined in this code of conduct shall not use his or her official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office. An employee shall not command or solicit from any other employee direct or indirect participation in any political activity or enforce or solicit in a coercive fashion contribution for any political party, organization or candidate. An employee shall retain his or her right to vote and express freely his or her opinion on all political subjects. An employee shall not be prohibited from

participation in local community activities or from holding public office in the community in which the employee resides, provided that such activity does not conflict with Section 3.01 of the Rules and Regulations for Personnel Administration for the Executive Branch and the Federal Hatch Act.

- k. The Vermont Supreme Court has the authority and responsibility to administer the Judicial Branch. Employees are expected to comply with specific orders and directives that may be issued or authorized by the Supreme Court. Failure to comply may result in immediate dismissal.

## C. Disciplinary Procedures

### 1. Policy and Limitations of Scope

Supervisors and Program Managers are responsible for enforcing the Judicial Branch's code of conduct consistently and fairly for the employees under their direction and to act promptly to impose corrective action or discipline within a reasonable time of the offense. The purpose of disciplinary actions is not to punish employees but to impress upon each employee the seriousness of their actions and to correct the employee's behavior. Four levels of disciplinary actions are established by the Judicial Branch. All disciplinary actions will be imposed in the order of progressive severity described below. However, there may be cases that warrant bypassing steps in the progressive discipline procedures or applying discipline in differing degrees so long as it is imposed for just cause.

Probate Court employees may be suspended or dismissed only by the Probate Judge. Probate Court employees may appeal disciplinary actions. Any decision on the appeal is of an advisory nature to the Probate Judge.

### 2. Suspension Pending Investigation of or Decision on Disciplinary Actions

The Court Administrator may suspend employees from duty with or without compensation pay and benefits or without pay and benefits pending the outcome of investigations or legal actions if the Court Administrator deems it is in the best interests of the Judicial Branch. A suspension of this nature may be for any period of time until a formal outcome is determined. The Court Administrator may reinstate pay and benefits to the employee suspended without pay retroactive to the date of the suspension if the circumstances or the results so warrant.

### 3. Disciplinary Actions

- a. Step I - Oral Warning

This is the least severe of all disciplinary actions. It is a means by which a supervisor or program manager calls to the attention of an employee specific deficiencies in the employee's job performance because of work rule violations or one or more violations of the work rules or regulations by the employee. As is true in the case of other disciplinary actions, counseling the employee is the most important concern. A record of an oral warning shall be made by the supervisor and placed in the employee's personnel file at the Court Administrator's Office. The record of oral warning shall be removed from the employee's file two (2) years after the issuance if no other disciplinary warnings have been issued. An employee may appeal a Step I warning through the Judicial Branch grievance procedure. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

b. Step II - Written Warning

A written warning is the next most severe disciplinary action. It consists of a formal memorandum or letter in which the immediate supervisor informs the employee that the employee has violated a work rule or regulation or that the employee's job performance is not satisfactory because of work rule violations. These memoranda or letters must warn the employee that performance or behavior must be corrected within a specified period of time if more severe penalties are to be avoided and should give direct and concrete instructions for future conduct. The original of the written warning shall be presented to the employee and a copy shall be included in the employee's personnel file. The written warning shall be removed from the employee's file three (3) years after issuance if there have been no additional disciplinary warnings issued. An employee may appeal a Step II warning through the Judicial Branch grievance procedure. The supervisor of an employee who has been warned may request the Court Administrator to remove the warning prior to the date the warning would normally be removed. The Court Administrator may direct the warning be removed if it is determined there is good cause to do so.

c. Suspensions

This is an action by which the Court Administrator, upon recommendation of a supervisor or program manager, temporarily suspends an employee from employment without compensation for a period not to exceed thirty work days. Suspensions include the following:

- 1) Loss of pay for the time specified,

- 2) Loss of annual, sick, and personal leave accrual during the period involved,
- 3) No accrual of service credit which may affect the calculation of longevity pay, additional annual leave, and step increases in salary.

Employees may not use annual leave, personal leave, sick leave or compensatory time while suspended. Benefits for employees who are suspended without pay shall be administered as if the employee were on an unpaid leave of absence. Before they are suspended, employees shall be given a written memorandum specifying the reasons for the suspension and the exact date and time when the employee is to return to work. A copy of this memorandum shall also be placed in the employee's personnel file. An appeal of a suspension action must be filed with the Judicial Branch Grievance committee within the prescribed time established in Step III of the grievance procedure.

The Probate Judge, with notice to the Court Administrator, may suspend Probate Court employees for disciplinary reasons provided the disciplinary procedures have been followed.

d. Dismissal (except Probate Court Employees)

The Court Administrator, upon recommendation of a supervisor or program manager, may dismiss an employee for just cause with two weeks' notice or two weeks pay in lieu of notice. Written notice of dismissal must be given to the employee within twenty-four (24) hours of oral notification. In the dismissal notice, the supervisor shall state the reason(s) for dismissal and inform the employee of the right to appeal the dismissal to the Judicial Branch Grievance Committee within the time limits established in Step III of the grievance procedure.

Notwithstanding the provisions stated above, an employee may be dismissed immediately without prior notice or pay in lieu of notice for a violation of a rule which notes that immediate dismissal could result.

4. Factors to be Considered When Deciding Upon a Disciplinary Action

There are some work rule and regulation violations which are so serious that they warrant the immediate discharge of the employee. Most offenses, however, do not require the immediate discharge of an employee. In deciding which disciplinary action to take, the supervisor or program manager should consider the following:

- a. The seriousness of the offense;

- b. The employee's disciplinary and work records;
- c. The employee's length of service;
- d. The Judicial Branch's past practice in similar or identical cases; and
- e. Circumstances surrounding the incident that are either mitigating or aggravating.

#### 5. Imposition of Disciplinary Action

The supervisor or program manager shall inform the employee that a disciplinary action is contemplated and schedule a time certain for a meeting to discuss the possible action and reasons therefore. The employee may be suspended without pay pending the decision of the supervisor or program manager if it is in the best interest of the Judicial Branch.

Discussions between the supervisor or program manager and employee regarding disciplinary actions shall:

- a. Be conducted in private and in a manner that will not embarrass the employee;
- b. Include a full explanation of the facts surround the incident(s);
- c. Include an opportunity for the employee to present his or her arguments or explanations; and
- d. Be confidential.

If the employee refuses to participate in a meeting to discuss a disciplinary action, the employee shall be informed in writing of the incident(s) and the disciplinary action to be imposed within five working days.

In those instances where the Court Administrator determines it is inappropriate for the supervisor or program manager to conduct the disciplinary meeting, the Court Administrator or his or her designee, shall conduct the meeting.

As soon after the meeting as possible, the employee shall be informed of the disciplinary action taken and of the right to appeal.

#### D. Law Clerk Code of Conduct

The Law Clerk Code of Conduct shall apply to all law clerks employed by the Judicial Branch and all legal interns during the course of their internship. Law clerks are subject to

the Judicial Branch code of conduct except where the Law Clerk Code of Conduct establishes stricter conduct. A violation of the Code of Conduct may result in immediate dismissal.

# VERMONT LAW CLERK CODE OF CONDUCT

Effective September 1, 1996

## PREAMBLE

[1] The Law Clerk Code of Conduct is intended to establish standards for ethical conduct of law clerks. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, a Terminology Section and an Application Section. The text of the Canons and the Sections, including the Terminology and Application Sections, is authoritative. The Code of Judicial Conduct and Reporter's Notes provide guidance with respect to the interpretation of the Canons and Sections. When the text uses "shall" or "shall not," it is intended to impose binding obligations the violation of which can result in disciplinary action. When "should" or "should not" is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a law clerk may be disciplined. When "may" is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

[2] The Canons and Sections are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances.

[3] The Code is designed to provide guidance to law clerks and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

[4] The text of the Canons and Sections is intended to govern conduct of law clerks and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

[5] The Law Clerk Code of Conduct is not intended as an exhaustive guide for the conduct of law clerks. The Code is intended, however, to state basic standards to govern the conduct of all law clerks and provide guidance to assist them in establishing and maintaining high standards of official conduct.

## TERMINOLOGY

Terms explained below are noted with an asterisk (\*) in the Sections where they appear.

[1] "**Appropriate authority**" denotes the authority with responsibility for initiation of disciplinary process with respect to the violation to be reported.

[2] **"Court personnel"** does not include the lawyers in a proceeding before a judge.

[3] **"De minimis"** denotes an insignificant interest that could not raise reasonable question as to a law clerk's impartiality.

[4] **"Economic interest"** denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

(i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the law clerk participates in the management of the fund or a proceeding pending or impending before the court for which the law clerk works could substantially affect the value of the interest;

(ii) service by a law clerk as an officer, director, advisor or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a law clerk's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the court for which the law clerk works could substantially affect the value of the interest;

(iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the court for which the law clerk works could substantially affect the value of the securities;

(v) an interest that is excepted from statutory disqualification under 12 V.S.A. ' 61 for a judge does not constitute an economic interest for a law clerk unless a proceeding pending or impending before the court for which the law clerk works could substantially affect the value of the interest.

[5] **"Fiduciary"** includes such relationships as executor, administrator, trustee, and guardian.

[6] **"Fourth degree of relationship."** The following persons are relatives within the fourth degree of relationship: great-great-grandparent, great-grandparent, grandparent, parent, great-uncle, great-aunt, uncle, aunt, brother, sister, first cousin, child, grandchild, great-grandchild, great-great-grandchild, nephew, niece, great-nephew, or great-niece.

[7] **"Knowingly," "knowledge," "known," or "knows"** denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

[8] **"Judge"** denotes anyone, whether or not a lawyer, who is an officer of the judicial system and who performs judicial functions, including an officer such as a magistrate, commissioner, traffic hearing officer, master, or referee.

[9] **"Law"** denotes court rules as well as statutes, administrative rules and regulations, constitutional provisions and decisional law.

[10] **"Law Clerk"** denotes anyone, whether or not a lawyer, who performs legal research and writing for a judge in the judge's judicial capacity.

[11] **"Member of the law clerk's family"** denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the law clerk maintains a close familial relationship.

[12] **"Member of the law clerk's family residing in the law clerk's household"** denotes any relative of a law clerk by blood or marriage, or a person treated by a law clerk as a member of the law clerk's family, who resides in the law clerk's household.

## **CANON 1**

### **A Law Clerk Shall Uphold the Integrity and Independence of the Judiciary**

An independent and honorable judiciary is indispensable to justice in our society. A law clerk should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary is preserved. The provisions of this Code are to be construed and applied to further that objective.

## **CANON 2**

### **A Law Clerk Shall Avoid Impropriety in All of the Law Clerk's Activities**

A. A law clerk shall respect and comply with the law\* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A law clerk shall not allow family, social, political or other relationships to bias the law clerk's official conduct or judgment. A law clerk shall not lend the prestige of the office to advance the private interests of the law clerk or others; nor shall a law clerk convey the impression that the law clerk is in a special position to influence a judge on a particular matter pending or impending in any court.

## CANON 3

### A Law Clerk Shall Perform Law Clerk Duties Impartially and Diligently

#### A. LAW CLERK RESPONSIBILITIES.

(1) A law clerk shall be faithful to the law\* and maintain professional competence in it. A law clerk shall not be swayed by partisan interests, public clamor or fear of criticism.

(2) A law clerk shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the law clerk deals in an official capacity.

(3) A law clerk shall perform official duties without bias or prejudice. A law clerk shall not, in the performance of official duties, by words or conduct, manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status.

(4) A law clerk shall not initiate, permit, or consider ex parte communications, or consider other communications concerning a pending or impending proceeding except:

(a) to consult with court personnel\* whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges and law clerks.

(b) as authorized by a judge in conformance with Canon 3(B)(7) of the Judicial Code of Conduct.

(5) A law clerk shall discharge all official duties promptly, efficiently and fairly.

(6) A law clerk shall not make any comment about a proceeding pending or impending in the court for which the law clerk works when such comment is not otherwise a public record. This Section does not apply to proceedings in which the law clerk or a member of the law clerk's family\* is a litigant. This Section does not prohibit law clerks from explaining for public information the procedures of the court.

(7) A law clerk shall not disclose or use, for any purpose unrelated to official duties, information acquired in a law clerk capacity that is not a public record.

(8) A law clerk shall diligently discharge all administrative responsibilities without bias or prejudice, and cooperate with judges, other law clerks, and court officials in the administration of court business.

#### B. DISCIPLINARY RESPONSIBILITIES.

(1) A law clerk who receives information indicating a substantial likelihood that a judge or law clerk has committed a violation of the applicable Code of Conduct should take appropriate action. A law clerk having knowledge\* that a judge or law clerk has committed a violation of the applicable Code of Conduct that raises a substantial question as to the judge's or the other law clerk's fitness for office shall inform the appropriate authority.\*

(2) A law clerk who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Vermont Code of Professional Responsibility should take appropriate action. A law clerk having knowledge\* that a lawyer has committed a violation of the Vermont Code of Professional Responsibility that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.\*

### **C. DISQUALIFICATION.**

(1) A law clerk shall disqualify himself or herself in a proceeding in which the law clerk's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the law clerk has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge\* of disputed evidentiary facts concerning the proceeding;

(b) the law clerk served as a lawyer in the matter in controversy, the law clerk acquired knowledge pertaining to the matter while employed by or associated with a lawyer serving in the matter in controversy, or the law clerk has been a material witness concerning it;

(c) the law clerk has accepted post-clerkship employment or association with a lawyer in the matter in controversy.

(d) the law clerk knows\* that the law clerk, individually or as a fiduciary, or the law clerk's spouse, parent or child wherever residing, or any other member of the law clerk's family residing in the law clerk's household,\* has an economic interest\* in the subject matter in controversy or in a party to the proceeding or has any other more than de minimis\* interest that could be substantially affected by the proceeding;\*

(e) the law clerk or the law clerk's spouse, or a person within the fourth degree of relationship\* to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known\* by the law clerk to have a more than de minimis\* interest that could be substantially affected by the proceeding;

(iv) is to the law clerk's knowledge\* likely to be a material witness in the proceeding.

(2) A law clerk shall keep informed about the law clerk's personal and fiduciary\* economic interests,\* and make a reasonable effort to keep informed about the personal economic interests of the law clerk's spouse and minor children residing in the law clerk's household.

**D. REMITTAL OF DISQUALIFICATION.** A law clerk disqualified by the terms of Section 3C for any reason other than personal bias or prejudice concerning a party may disclose to the judge the basis of the law clerk's disqualification. If, based on such disclosure, the judge agrees in writing that the law clerk's relationship is immaterial or that the financial interest is insubstantial, the law clerk is no longer disqualified, and may participate in the proceeding.

**E. DISCLOSURE AND CONSENT.** A law clerk shall disclose to the judge any fact or matter relevant to the question of impartiality that, in the law clerk's view, may require disqualification under Section 3C(1).

#### **CANON 4**

##### **A Law Clerk Shall Conduct the Law Clerk's Extra-Official Activities to Minimize the Risk of Conflict With Law Clerk Duties**

**A. EXTRA-OFFICIAL ACTIVITIES IN GENERAL.** A law clerk shall conduct all of the law clerk's extra-official activities so that they do not:

(1) cast reasonable doubt on the law clerk's capacity to act impartially as a law clerk; or

(2) interfere with the proper performance of law clerk duties.

**B. AVOCATIONAL ACTIVITIES.** A law clerk may speak, write, lecture, teach and participate in other extra-official activities concerning the law,\* the legal system, the administration of justice and nonlegal subjects, subject to the requirements of this Code.

**C. GOVERNMENTAL, CIVIC OR CHARITABLE ACTIVITIES.**

(1) A law clerk shall not testify at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law,\* the legal

system or the administration of justice or except when acting pro se in a matter involving the law clerk or the law clerk's interests.

(2) A law clerk shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law,\* the legal system or the administration of justice.

(3) A law clerk may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law,\* the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

(a) A law clerk shall not serve as an officer, director, trustee or nonlegal advisor if it is likely that the organization will be engaged in proceedings that would ordinarily come before the law clerk's supervising judge.

(b) A law clerk as an officer, director, trustee or nonlegal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a law clerk may solicit funds from judges and other law clerks.

(ii) shall not use or permit the use of the prestige of the law clerk office for fund-raising or membership solicitation.

#### **D. FINANCIAL ACTIVITIES.**

(1) A law clerk shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the law clerk's position, or

(b) involve the law clerk in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court for which the law clerk works.

(2) A law clerk may, subject to the requirements of this Code, hold and manage investments, including real estate, of the law clerk and members of the law clerk's family,\* and engage in other remunerative activity.

(3) A law clerk shall not accept a gift, bequest, favor or loan from anyone except for:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the law clerk and the law clerk's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law,\* the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a law clerk residing in the law clerk's household, including gifts, awards and benefits for the use of both the spouse or other family member and the law clerk (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the law clerk in the performance of law clerk duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3D;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not law clerks;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, provided the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the court for which the law clerk works.

(4) A law clerk is not required by this Code to disclose income, debts, or investments.

#### **E. FIDUCIARY ACTIVITIES.**

(1) A law clerk shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary,\* if such service will interfere with the proper performance of law clerk duties.

(2) A law clerk shall not serve as a fiduciary\* if it is likely that the law clerk as a fiduciary will be engaged in proceedings that would ordinarily come before the court for which the law clerk works, or if the estate, trust or ward becomes involved in adversary proceedings in the court for which the law clerk works or one under its appellate jurisdiction.

(3) The same restrictions on financial activities that apply to a law clerk personally also apply to the law clerk while acting in a fiduciary\* capacity.

**F. SERVICE AS ARBITRATOR OR MEDIATOR.** A law clerk shall not act as an arbitrator or mediator or otherwise perform judicial or law clerk functions in a private capacity except in jurisdictions outside the State of Vermont.

**G. PRACTICE OF LAW.** A law clerk shall not practice law. Notwithstanding this prohibition, a law clerk (1) may perform legal research and writing with or without compensation on cases pending in jurisdictions outside the State of Vermont, (2) may act pro se, and (3) may, without compensation, give legal advice to and draft or review documents for a relative or friend.

#### **APPLICATION OF THE LAW CLERK CODE OF CONDUCT**

**A. EFFECTIVE DATE; TIME FOR COMPLIANCE.** This Code takes effect on September 1, 1996. All persons to whom this Code is applicable on that date shall comply immediately with all provisions of this Code. All persons to whom this Code thereafter becomes applicable shall comply immediately with all provisions of this Code except Sections 4D (1), and 4E and shall comply with those Sections as soon as reasonably possible.

**B. TITLE.** This Code may be known and cited as the Vermont Law Clerk Code of Conduct.

## Part VIII

### Judicial Grievance Procedure and Classification Grievance Procedure

#### D. Grievance Procedure

##### 1. Purpose

The intent of this procedure is to provide for a satisfactory method for settlement of grievances except grievances of classification by employees or groups of employees of the Judicial Branch and to provide an appeal procedure for disciplinary actions regarding work rule violations or poor job performance. It is expected that employees and supervisors will make a sincere effort to reconcile their differences as quickly as possible at the lowest possible organizational level. Subject to applicable law, every employee may freely institute grievances without threats, reprisals, or harassment by the employer.

##### 2. Definitions

- a. Wherever used, the term "employee" means either employee or employees, as appropriate.
- b. "Grievance" means a complaint, except a complaint about classification or a classification decision, by an employee concerning the interpretation or application of any rule or regulation governing personnel practices or working conditions of the Judicial Branch which is contained in any formal personnel policy, manual, administrative directive, or non-written practice, duty assignments or hours worked.

A grievance shall contain the following information:

- 1) The full name and address of the party or parties submitting the grievance;
  - 2) A statement of the facts concerning the grievance;
  - 3) If appropriate, specific references to the pertinent section(s) of the rules and regulations, manual or administrative directives alleged to have been violated; and
  - 4) A statement of the specific remedial action sought.
- c. "Business days" means calendar days exclusive of Saturdays, Sundays and legal holidays observed by the State of Vermont.

### 3. Procedure

#### a. Step I (Immediate Supervisor Level)

- 1) The employee shall notify the immediate supervisor of a grievance within ten business days of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint. The complaint may be made orally but must be followed up in a written manner and must be identified as a grievance by the employee.
- 2) Within 5 days of the submission of the grievance, the grievance shall be discussed informally by the aggrieved employee and the immediate supervisor. The supervisor shall notify the employee in writing of the decision within five business days after the discussion of the grievance.
- 3) Step I may be waived by procedures in Subsection 4 of this Part if the level of review is inappropriate to the type of grievance.
- 4) The supervisors listed in Appendix C are responsible for this level of review. However, for purposes of this procedure, the Administrative Secretary to the Court Administrator shall grieve or appeal to the Director of Administrative Services.

#### b. Step II (Court Administrator's Office Level)

- 1) If no satisfactory settlement is reached at Step I or the supervisor does not respond to the grievance, the grievance shall be reduced to writing if not already presented in writing, and be submitted for action by the aggrieved party to the Step II hearing authority defined in (2) of this subsection. The submission must occur within five business days after the receipt of the Step I decision, otherwise the matter shall be considered closed. If Step I has been waived, the grievance must be submitted in writing by the aggrieved employee to the Step II hearing authority within ten business days of the date of the waiver. The submission of the grievance should also contain a request for a hearing if the grievant so desires.
- 2) The Step II hearing authorities are:
  - a) For Trial Court employees except employees of the Traffic and Municipal Ordinance Bureau- the Director of Judicial Operations;
  - b) For Trial Court Judges' Secretaries - the Director of Judicial Operations;

- c) For Supreme Court employees - the Director of Administrative Services;
- d) For Judicial Operations Division employees - the Director of Administrative Services;
- e) For Administrative Services Division employees - the Director of Administrative Services;
- f) For District and Family Court Managers and Superior Court Clerks where the grievance is within the authority of the Judicial Branch to remedy - the Director of Administrative Services;
- g) For the Finance Manager - the Director of Judicial Operations;
- h) For Trial Court Law Clerks - the Director of Judicial Operations;
- i) For Supreme Court Law Clerks - the Director of Administrative Services;
- j) For employees of the Traffic and Municipal Ordinance Bureau - the Chief Hearing Officer
- k) For the Director of the Traffic and Municipal Ordinance Bureau - the Director of Judicial Operations
- l) For the employees of the Division of Research and Information Services - the Director of Administrative Services
- m)** For the employees of the Boards and Committees - the Director of Administrative Services
- n) For the Administrative Assistant to the Administrative Judge for Trial Courts - the Director of Administrative Services; and
- o) For the Chief Trial Court Law Clerk - the Director of Administrative Services.

If, for any reason, the above mentioned hearing authorities are disqualified from the grievance proceedings, the Court Administrator shall appoint a substitute hearing authority.

- 3) If a Step II grievance hearing is requested, the hearing authority with whom the grievance was filed shall hold the hearing within ten business days from receipt of the grievance unless a satisfactory solution can be agreed to before the time and place of the Step II grievance hearing. The hearing shall be conducted informally. Within five (5) business days of the hearing, the hearing authority shall notify the aggrieved employee of the decision in writing.
- 4) If no Step II grievance hearing is requested, the hearing authority shall notify the aggrieved employee of the decision in writing within ten (10) business days after the receipt of the Step II grievance.
- 5) The hearing authority may interview any witness or review any materials which may have a bearing on the grievance without resorting to a grievance hearing.

c. Step III (Judicial Branch Grievance Committee)

- 1) The Judicial Branch Grievance Committee shall be appointed by the Chief Justice of the Vermont Supreme Court to hear a specific grievance. The Committee shall be composed of two judges, the Court Administrator, who shall also act as the secretary of the Committee, one employee covered by this procedure and one employee covered by this procedure chosen by the Chief Justice from a list of three employee submitted by the grievant.
- 2) Within five (5) business days of the receipt of the hearing authority's decision from the Step II proceeding, the aggrieved employee may appeal the decision to the Judicial Branch Grievance Committee.
- 3) Within ten (10) business days the Chief Justice shall appoint the committee; within twenty (20) business days from the appointment, the Judicial Branch Grievance Committee shall make a thorough review of the grievance, meet with the parties involved, take testimony determining the facts and give a written decision with reason(s) to the employee with copies to the Step II hearing authority and the employee's supervisor. The decision shall be binding upon the parties.
- 4) The Judicial Branch Grievance Committee may waive the twenty (20) day period established in subsection (3) of this step if more time is necessary to properly determine the facts of the grievance.

Upon its own initiative or upon request of the grievant, the Committee may appoint a fact finder. In the event the Committee decides to appoint a fact finder, it shall appoint a person knowledgeable in labor relations who shall not be actively connected

with the parties of the grievance. The compensation and expenses of the fact finders shall be established by the Committee subject to the approval of the Chief Justice.

Fact finding for grievances will be limited to the formal written grievance as filed by the employee in Step I or Step II and only to the extent that the grievance has not been satisfactorily resolved. Fact finding shall be conducted in accordance with conditions established by the fact finder. The fees and expenses including, but not limited to, fees for witnesses, transcripts and similar costs incurred by the parties during such fact finding will be the responsibility of the party who requested or required the expense item. In the interest of fairness, the panel may allocate costs among the parties.

The written decision of a fact finder shall be advisory in nature to the Judicial Branch Grievance Committee and shall not be binding upon the Committee. The decision shall be submitted to the Judicial Branch Grievance Committee for discretionary action. The committee must render a written decision on the grievance within twenty (20) business days of the date the fact finder tendered the written results of fact finding.

#### 4. Waivers and Time Limits

- a. Work schedules and job requirements may limit the ability of any party to initiate a grievance, respond to a grievance, hold a grievance hearing or proceed to the next level of a grievance within the established time requirements. If the employee or the reviewing party has just reason for not being able to meet the established time limits, he or she shall notify the other party prior to the expiration of the time limit and they shall mutually agree to an extension of time. If mutual agreement cannot be reached, the Court Administrator shall determine whether an extension is necessary, and if so, establish new time requirements. Neither party shall lose any rights due to a time extension. All extensions of time limits must be confirmed in writing.
- b. A level of review may be waived in the grievance procedure. The reasons for a waiver are:
  - 1) The proposed resolution of the grievance is not within the authority of the reviewing party at that level; or
  - 2) The reviewing party believes he or she cannot appropriately respond to the grievance.

The parties may mutually agree to waive the grievance procedure at any level and proceed to the next level or review. If mutual agreement cannot be reached, either party may apply to the Court Administrator for waiver of a

level of review. All time limits shall be suspended until the parties have been notified of the decision of the waiver request.

Neither party shall lose any rights while waivers are being considered, and all waivers shall be confirmed in writing.

## 5. The Parties' Rights

- a. The employee has the right to the assistance of a representative to prepare the written grievance and to represent the employee at the employee's expense in grievance hearings. The employee must notify the Court Administrator in advance of any meeting in which the employee intends to have a representative present.
- b. The employee may present the grievance on work time. If schedules do not permit the presentment to occur within the time constraints, a waiver should be obtained through procedures detailed in Section B.
- c. The reviewing authority in Steps I and II of Section 3 of this procedure has the right to have a representative present at any grievance meeting. The reviewing authority shall notify the employee in advance if a management representative will be present.
- d. Any material, document, note, or other tangible item which is to be entered or used by any party in any grievance proceeding held in accordance with this section is to be provided to the other party prior to the proceeding at no cost.

## E. Classification Review Procedure

### 1. Definitions

- a. A **reconsideration of classification decision** is defined as a request by an employee or supervisor for the classification committee as a whole to review a classification determination that resulted from a review performed under Part III, Section B.2. or under Part III, Section B.3. of this Policy.
- b. A **classification grievance** is defined as an appeal of a classification determination which has been reconsidered by the classification committee.
- c. Wherever used, the term "employee" means other employee or employees, as appropriate.
- d. "Business days" means calendar days exclusive of Saturdays, Sunday, and legal holidays observed by the State of Vermont.

### 2. Reconsideration of Classification Decision

- a. A request to reconsider a classification decision shall be filed in writing and shall minimally include:
- 1) the name of the employee, employees or supervisor submitting the request;
  - 2) the class title, pay grade equivalent and work unit of the position under review;
  - 3) the specific issues which require reconsideration with a detailed rationale why the classification decision was not appropriate,
  - 4) a copy of the classification report and the job description form upon which the classification review was based,
  - 5) the specific remedial action requested, including class to which reassignment is sought;
  - 6) employee or supervisor signature and date.

b. Procedure

The request to reconsider a classification decision shall be sent to the Personnel Administrator at the Court Administrator's Office. Within twenty business days of the receipt of the request, the Personnel Administrator shall schedule a meeting of the classification committee to review the request. All members of the classification committee shall be qualified to participate in the review. A majority of the classification committee shall constitute a quorum and the Personnel Administrator shall act as chair except in the instance where the Personnel Administrator participated on the initial classification panel. In that instant the Court Administrator will appoint a committee member who was not involved in the initial review as acting chair.

The employee or supervisor shall be notified of the meeting and shall be allowed to make a presentation of the issues to the committee or rely on the written submission. The committee may require further information from the employee or supervisor and may interview other personnel to obtain or confirm relevant information.

The committee shall review the classification report in light of the original and supplemental information presented and reach a consensus on an appropriate classification determination. The committee shall notify the Court Administrator and the employee or supervisor of the committee's decision within ten business days of the meeting.

The committee, upon its own or upon the request of the employee requesting the review, may extend any of the time frames set forth in this subsection.

Any meetings shall be scheduled during working hours if possible. Any changes in the classification determination shall be deemed to be effective upon the same date of the original classification determination.

3. Classification Grievance Procedure

a. Within ten business days of the notification of the reconsideration decision, the employee may file a classification grievance. The grievance shall be filed in writing and shall include all materials submitted during the reconsideration phase plus:

- 1) a written description of the issues with rationale why the reconsideration decision is not appropriate and arbitrary and capricious;
- 2) the specific remedial action requested, including class to which reassignment is sought;
- 3) a list of three (3) employees the grievant wishes the Chief Justice to consider as a Classification Grievance Panel member; and
- 4) employee signature and date.

The grievance shall include a completed job description and any supporting written information, arguments or documentation.

b. Procedure

- 1) The grievance shall be filed with the Director of Administrative Services acting in the capacity as secretary of the Judicial Branch Classification Grievance Panel.
- 2) The Judicial Branch Classification Grievance Panel shall consist of a chairperson appointed by the Chief Justice, the Director of Administrative Services, who shall also act as secretary to the panel, and one employee covered by this policy chosen by the Chief Justice from a list of three employees submitted by the grievant. The employees recommended by the grievant for the Panel cannot be actively involved in the grievance or benefit from the outcome of the grievance. The chairperson shall not be actively connected with the parties or the grievance. The chair shall be a person knowledgeable in classification procedure and labor relations. The chairman shall be compensated for time and necessary expenses at rates established and approved by the Chief Justice.
- 3) Upon receiving a classification grievance the secretary shall notify

the Chief Justice. The Classification Grievance Panel shall thoroughly review the grievance and meet to hear the grievance within thirty (30) business days from the date a chairperson was appointed. The procedure for the hearing shall be established by the Panel's chairperson. The Panel shall issue a decision to the employee and to the Court Administrator within (20) business days of the date of the hearing. The Panel may waive or extend these time limits prior to their expiration where circumstances warrant upon the request for good cause from the grievant or management or upon the Panel's own initiative. The Panel's decision shall be by majority vote and shall be final and binding.

- 4) The Panel shall base its decision in a grievance seeking upward reassignment on whether there was a substantial addition to or significant change of an employee's responsibilities or duties that result in a more complex or accountable job; or in a grievance protesting a downward reassignment on whether there was a substantial shift to significantly lower level job duties or skills or a significant change that made the position less responsible during the one year period proceeding the date of filing the grievance.

The Panel shall consider and measure the following factors when considering the grievance:

- a) Knowledge, skills and abilities required for satisfactory job performance, including any special degree, certification, or licensing requirement;
- b) Variety and complexity of duties, interpersonal communications skills, and managerial skills;
- c) Mental demands including responsibility for independent judgment and problem solving skills;
- d) Accountability including freedom to take action and the size of the job's impact on the organization;
- e) Working conditions including effort, discomfort, and hazards.

The burden shall be on the grievant to establish that the classification decision was arbitrary and capricious or had no evident rational basis.

#### 4. Pay Adjustments

- a. Grievance is a result of a general review under Part III.B.2.

If the panel grants the grievance and the decision would place the position or

positions at a higher pay grade equivalent than the position was assigned prior to the general review, the resulting pay adjustments will be effective on the date the recommendations of the general review were implemented and effective.

- b. Grievance is a result of a review requested under Part III.B.3.

If the panel grants the grievance and the decision would place the position or positions at a higher pay grade equivalent, the resulting pay adjustment shall be effective retroactive to the beginning of the first pay period immediately following the filing date of the grievance.

## 5. Rights and Restrictions

- a. The employee has the right to the assistance of a representative to prepare the written grievance and to represent the employee at the employee's expense in the grievance proceedings. The employee must notify the Court Administrator in advance of any meeting in which the employee intends to have a representative present.
- b. The employee may present the grievance on work time. If schedules do not permit the presentment to occur within the time constraints, a waiver of the time constraints should be obtained from the Panel.
- c. The Court Administrator has the right to have a representative present at any grievance hearing. The Court Administrator shall notify the employee in advance if a management representative will be present.
- d. Witnesses may be called by the parties. Judicial Branch employees called as witnesses may attend grievance hearings during work time.
- e. Any material, document, note, or other tangible item which is to be entered or used by any party in any grievance proceeding held in accordance with this section is to be provided to the other party prior to the proceeding at no cost.

**Part IX**  
**Other Provisions**

A. Reduction in Force

1. Initiation of a Reduction in Force

Inadequate funding, changes in statutory mandate or judicial goals, reorganization, improved technology, or a lack of work may cause a reduction in the Judicial Branch's work force. When any of these situations occur, the Court Administrator shall recommend to the Supreme Court a plan to accomplish the reduction in force. The plan shall designate positions, classes of positions, or programs within the Judiciary to be transferred, abolished or vacated by the layoff. Once the plan is approved, employees in positions designated for transfer or abolishment shall be given a twenty business day notice.

2. Status of Employees

For purpose of a layoff, Judicial Branch employees shall be categorized into the following groups:

1. Permanent Status Employees - Those employees who have successfully completed their original probationary with the Judicial Branch.
2. Probationary Status Employees - Those employees who are currently in their original probationary period with the Judicial Branch or are in a probation period under Part VI, D., 3. of this policy.
3. Temporary Employees - Those employees paid on the state payroll but not entitled to state employee employment benefits.

3. Programs of the Judicial Branch

For the purpose of a layoff, the Judiciary is divided into the following programs:

1. Supreme Court, Court Administrator's Office, Board of Bar Examiners and Professional Conduct Board.
2. Supreme Court Law Clerks
3. Trial Court Law Clerks
4. Trial Judge Secretaries
5. Probate Court

6. District Court
7. Traffic and Municipal Ordinance Bureau
8. Court Reporting
9. Family Court
10. Environmental Court

In addition, each program is subdivided by geography based on county boundaries.

#### 4. Seniority

An employee's seniority shall be determined solely by eligible Judicial Branch service. Eligible Judicial Branch service shall include the following:

1. All time served continuously in the Judiciary as a permanent, probationary or temporary employee.
2. Any period of "leave of absence without pay" shall be deducted when computing time for seniority except for a "leave of absence without pay" due to a military service obligation under Part V., subsection H of this policy.
3. In computing eligible time for seniority, employees who now work or previously worked less than a full-time work schedule at any time during the eligible period of employment shall be credited for time actually worked. (For example: An employee who worked one half time for 2 years would receive one year credit toward seniority.)
4. An employee eligible for veteran's preference under this policy shall have seniority over an employee who is not eligible for veteran's preference where a calculation of seniority between the employees is equal.

#### 5. Reduction in Force Notice

When a reduction in force plan has been approved by the Supreme Court, the Court Administrator shall send a notice by certified mail return receipt requested to employees whose positions are to be eliminated or transferred. The notice shall contain the effective date of the action, an explanation of retention rights, a list of eligible positions for the possible use of retention rights, and a deadline to notify the Court Administrator regarding the election to use retention rights.

#### 6. Reduction in Force Procedures

An employee designated for layoff due to the employee's position being abolished or transferred may exercise retention rights. Retention rights shall be exercised in the following manner:

1. No employee may exercise retention rights over any employee who has greater seniority regardless of class or pay grade.
  2. An employee designated for layoff or transfer who has seniority shall exercise retention rights on the least senior employee in the same position class in the program and the geographic area to which the employee's position is assigned.
  3. If there are no employees on which to exercise retention rights under b., a senior employee may exercise retention rights over any employee who has less seniority in a position within the same program and geographic area where the position's pay grade is equal or lower as long as the employee meets the minimum qualifications of the "new" position.
  4. If there are no employees on which to exercise retention rights under c., a senior employee may exercise retention rights on any employee with less seniority in the same position class in the same program statewide.
  5. If there are no employees on which to exercise retention rights under d., a senior employee may exercise retention rights over any employee with less seniority within the same program statewide where the pay grade of the "new" position is less than or equal to the employee's current position and the employee meets the "new" position's minimum qualifications.
  6. An employee designated for layoff or transfer shall receive as part of their notice a list of positions on which the employee may exercise retention rights. Within 3 business days of receipt of the notice of layoff, the employee must notify the Court Administrator of the employee's intent to exercise their rights of retention and at that time must designate the position on which they wish to exercise their rights.
  7. Employees funded by a grant, federal or special funds, shall not be a member of a status group for layoff purposes. The time worked by employees originally funded by these funds shall not count toward seniority.
7. Demotion in Lieu of Layoff or Transfer

A permanent status employee designated for layoff or transfer may request to be demoted rather than laid off or transferred. If the employee requests demotion, the employee shall be entitled to be reassigned to a vacant position in a position class which has an equal or lower pay grade equivalent and is in the same location or program, as long as the employee scheduled to be laid off meets the minimum qualifications and testing requirements of the position in the equal or lower position

class. An employee must request this option within three business days after receiving notice of layoff or transfer. The notice of layoff shall inform the employee when the demotion option is available. An employee demoted under this section shall be paid in accordance with Part III.C.2.(c) entitled Re-Employment.

#### 8. Reduction in Force (RIF) Rights

An employee who was laid off because of a RIF shall have certain rights for thirty days prior to the effective date of layoff and for two years after the effective day of the layoff.

1. The employee has mandatory re-employment rights to any position at the same or lower pay grade which becomes vacant in the geographic location and program from which the employee was laid off while RIF rights are in force. The Court Administrator must notify the employee. The employee must meet the minimum qualifications of the position to exercise this right.
2. If an employee refuses or waives three offers of re-employment, mandatory re-employment rights pursuant to subsection "a)" above, shall be terminated.
3. An employee who is rehired after a layoff, shall be paid in accordance with Part III.C.2(c) entitled Re-employment. The employee will have any unused sick leave credits at the time of layoff restored. The employee will be considered to have been continuously employed except that the period during which the employee was laid off will not count toward seniority.
4. An employee must accept an offer of re-employment in writing within five days. Failure to accept an offer within five days shall be considered a waiver of re-employment rights to that position. An employee accepting an offer must begin work within three weeks of the date of acceptance.
5. An employee who is laid off shall be paid for any annual leave or earned compensatory time at the employee's prevailing straight time rate.
6. If two or more employees who were laid off are eligible for mandatory re-employment, the employee with greater seniority shall be re-employed first.

#### B. Employment of Relatives in Non-Statutory State-Paid Positions

No person will be hired, promoted, or transferred to a permanent position where the selecting authority or supervisor is a relative of the employee. For purposes of this section, relatives shall include the employee's parent, brother, sister, child, grandchild, grandparent, aunt, uncle, niece, nephew, first cousin, or spouse and the spouse's relatives to the same degree as the employee's.

#### C. Employee Personnel Files

All employees shall have the right to review the contents of their personnel file maintained at the Office of the Court Administrator. If it is inconvenient for an employee to come to the Office of the Court Administrator to review the file, a copy of the file will be sent to the employee upon the employee's written request.

## **APPENDIX C**

### **SUPERVISORY RELATIONSHIPS**

#### **Supreme Court Personnel**

The Deputy Clerk of the Supreme Court, the Board Counsel and Bar Counsel of the Professional Conduct Board, and the Administrative Assistant to the Board of Bar Examiners are supervised by the Court Administrator.

The Staff Attorneys of the Supreme Court are supervised by the Supreme Court.

The Administrative Assistant to the Supreme Court is supervised by a designated Staff Attorney.

The Administrative Secretary to the Chief Justice and the Senior Staff Attorney are supervised by the Chief Justice.

The Investigator and the Secretary for the Professional Conduct Board are supervised by the Bar Counsel of the Professional Conduct Board. The Administrative Assistant to the Board Counsel is supervised by the Board Counsel.

The Supreme Court Docket Clerk and the Assistant Supreme Court Docket Clerk/Administrative Assistant to the Director of Judicial Operations are supervised by the Deputy Clerk of the Supreme Court. The Director of Judicial Operations shall have administrative responsibilities for the Assistant Supreme Court Docket Clerk/Administrative Assistant to the Director of Judicial Operations while the employee is performing tasks assigned by the Director of Judicial Operations and is expected to communicate to the Deputy Clerk of the Supreme Court if the employee's performance is unsatisfactory or if a work rule has been violated.

The Supreme Court Law Clerks are supervised by a designated Staff Attorney. The Supreme Court Justices have supervisory responsibilities for work assigned to their law clerk.

#### **Court Administrator's Office Personnel**

The Director of Administrative Services, the Director of Judicial Operations, the Director of Research and Information Services, the Staff Attorney responsible for Judicial Education, and the Administrative Secretary to the Court Administrator are supervised by the Court Administrator.

The Senior Systems Programmer, the Systems Network Specialist, Research and Statistics Analyst, and the Research and Systems Administration Assistant are supervised by the Director of Research and Information Services.

The Judicial Operations Manager and the Administrative Assistant to the Director of Judicial Operations is supervised by the Director of Judicial Operations.

The Fiscal Operations Specialist, Accountant, Account Clerk/Receptionist, and Account Clerk/Supply Officer are supervised by the Finance Manager.

The Finance Manager, Personnel Administrator and Court Security Specialist are supervised by the Director of Administrative Services.

The Personnel Assistant is supervised by the Personnel Administrator.

#### Trial Court Personnel

Trial Judges' Secretaries may be supervised by a Family, District or Superior Court Manager or a Trial Court Judge. The Court Administrator and the Administrative Judge shall designate the supervisor for each secretarial position. Regardless of the designation, Trial Court Judges have administrative responsibilities for the secretary while the secretary is performing work for the judge and are expected to communicate to the secretary's supervisor any unsatisfactory performance or violation of work rules.

Trial Court Law Clerks are supervised by the Chief Trial Court Law Clerk.

Trial Court Judges have administrative responsibilities for the law clerk while the law clerk is performing tasks assigned by the judge and are expected to communicate to the Chief Trial Court Law Clerk if the law clerk's performance is unsatisfactory or if a work rule has been violated.

The Chief Trial Court Law Clerk is supervised by the Director of Judicial Operations.

Court Reporters are supervised by the a court manager designated by the Court Administrator. Trial Court Judges have administrative responsibilities for court reporters while the reporter is assigned to the court in which the judge is assigned. The judge is expected to communicate to the court manager unsatisfactory performance or violation of work rules.

District and Family Court Managers are supervised by the Court Administrator. Trial Court Judges have administrative responsibilities for the manager at the court where they are assigned as presiding judge. Presiding judges shall communicate unsatisfactory performance or work rule violations to the Court Administrator.

District and Family Court Docket Clerks, Family Case Managers, Child Support Case Managers, Deputy District and Family Court Clerks, Juvenile Docket Case Manager, Scheduling Clerks, Docket Clerk A/Secretary, Court Security Officers, Public Assistance Clerks, Record Clerks and Court Recorders are supervised by the District or Family Court Manager of the court where they are stationed.

The Chief Hearing Officer is supervised by the Administrative Judge for Trial Courts.

The Director of the Traffic and Municipal Ordinance Bureau and the Traffic and Municipal Ordinance Bureau Hearing Officers are supervised by the Chief Hearing Officer.

Vermont Traffic and Municipal Ordinance Bureau employees are supervised by the Director of the Vermont Traffic and Municipal Ordinance Bureau. Court Officer/Court Recorders are supervised by a hearing officer designated by the Chief Hearing Officer.

The Administrative Assistant to the Administrative Judge for Trial Courts is supervised by the Administrative Judge.

The Deputy Court Clerk C for the Environmental and Washington District Courts is supervised by the manager of the Washington District Court. The Environmental Court Judge has administrative responsibilities for the work of the Environmental Court clerk. The Environmental Court Judge shall communicate unsatisfactory performance or work rule violations to the manager of the Washington District Court.

#### Probate Court

Probate Court Registers A and B and Probate Clerks A, B and C are supervised by the Probate Judges.

#### Other

All temporary employees are designated a supervisor at time of employment.

**APPENDIX D**  
**POLICY AND PROCEDURE REGARDING GENDER BIAS**  
**AND SEXUAL HARASSMENT IN THE WORK PLACE**

**I. PURPOSE**

The Vermont Supreme Court hereby establishes the following policy and procedures for the Judicial Branch regarding gender-biased conduct and sexual harassment in the work place by all judicial officers, managers, supervisors, employees and volunteers of the Judiciary, and all other persons who use court facilities, including court officers, attorneys, law enforcement officers, probation and parole officers, contractors, and vendors.

**II. POLICY**

Gender-biased conduct and sexual harassment violate an individual's basic civil rights, undermine the integrity of the court system and the work place, and adversely affect workers and clients whether or not they are direct objects of harassment. In addition, this behavior may be a form of discrimination on the basis of sex and is, therefore, prohibited by law.

The Judiciary supports the right of all persons to hold employment in or enjoy access to the Judicial Branch without suffering gender-biased conduct or sexual harassment of any kind. It is the policy of the Judiciary to maintain a court atmosphere free of gender-biased conduct and sexual harassment. Neither gender-biased conduct nor sexual harassment will be tolerated.

All employees will be expected to comply with this policy and take appropriate affirmative measures to ensure that this kind of conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy, up to and including immediate dismissal.

Each judicial officer, manager, and supervisor within the Judiciary is responsible for providing a work place free from gender-biased conduct and sexual harassment. This duty includes ensuring discussion of this policy with all employees, educating them concerning its application, and assuring all employees that they are not required to endure such behavior.

This policy applies to all employees of the Judiciary, whether compensated by the state or county, its offices, departments and subdivisions, and includes all temporary, permanent and contractual employees, court officers, applicants for employment and volunteers. It also applies to attorneys, litigants, and members of the public who use court facilities, who are alleged to have harassed court employees.

### **III. DEFINITION OF GENDER-BIASED CONDUCT**

Gender-biased conduct refers not only to discriminatory conduct, but to any conduct predicated upon predetermined or stereotypical notions about how women and men should or do act.

### **IV. DEFINITION OF SEXUAL HARASSMENT**

#### **A. The definition of sexual harassment**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

#### **B. Prohibited conduct**

Sexual harassment can be verbal, physical, auditory or visual. It can be subtle or overt. It refers to behavior that is not welcome, is personally offensive and fails to respect the rights of others. Sexual harassment occurs in a variety of situations which share a common element: the inappropriate introduction of sexual activities or comments into the work environment.

Both men and women can be the objects of sexual harassment. It can occur in situations where one person has authority (or the appearance of authority) over another. Such situations may contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting privileges or favorable treatment on the job. Sexual harassment, however, may also involve relationships among equals, such as when repeated advances or demeaning verbal comments by a worker towards a co-worker interfere with the co-worker's ability to perform his or her work. Sexual harassment can also involve non-employee behavior directed toward employees or employee behavior directed toward non-employees.

Courts have found that the following behaviors have caused intimidating, hostile or offensive work environments: vulgar or obscene language; sexual horseplay, including double entendres, sexual questions, jokes or stories; sexual propositions; display of sexual objects or pornography, including calendars and pictures; sexual graffiti; unwanted physical contact, which may include touching, pinching, or brushing the body; obscene gestures; leering; and name calling.

## **V. DISSEMINATION, EDUCATION AND TRAINING**

All employees, permanent and temporary, and other affected persons shall be informed of this policy and the Judiciary's commitment to a work place free of gender-biased conduct and sexual harassment.

This policy statement and any supporting documents shall be included in all orientation material, programs and informational packets.

The Court Administrator shall ensure that all judicial officers, managers and supervisors are trained to administer this policy, to respond to complaints brought to their attention and to rectify work situations that create a gender-harassing environment.

The Court Administrator shall ensure that all employees are informed of the procedure for reporting an incident of gender-biased conduct or sexual harassment.

Each judicial officer, manager, supervisor and employee is personally responsible for ensuring that his or her conduct is not gender-biased and does not sexually harass any other employee or non-employee in the work place, and is responsible for cooperating in any investigation of alleged sexual harassment if requested to do so by the person conducting the investigation.

## **VI. COMPLAINT PROCEDURE**

The following procedures have been developed to ensure that complaints are investigated quickly in a manner that is fair to all. All employees are encouraged to report any incidents of gender-biased conduct or sexual harassment. Complaints will be promptly responded to and every effort will be made to resolve all complaints as quickly as possible.

An individual who believes he or she may be the victim of such behavior and wishes to discuss the situation prior to making the complaint should contact his or her supervisor or the personnel officer at the Court Administrator's Office as soon as possible. The employee's supervisor or the personnel officer shall be available to meet with the individual, if requested, to discuss the situation and to provide information regarding gender bias and sexual harassment and the complaint procedure.

### **A. Complaints Concerning All Judicial Officers, Attorneys or Non-Judicial-Branch Employees**

Complaints of gender-biased conduct or sexual harassment concerning all judicial officers should be referred directly to the personnel officer at the Court Administrator's Office. That office will be responsible for undertaking a confidential investigation within forty-eight hours and shall conclude the investigation within thirty days. If there are reasonable grounds to believe that gender-biased conduct or sexual harassment has occurred, the Court Administrator shall refer the report to the Administrative Judge for Trial Courts, the Supreme Court, or the Judicial Conduct Board for action, as appropriate.

The complainant shall be informed in a timely manner of the progress of the complaint, the investigation, and the action taken in response. The Court Administrator shall be responsible for establishing and maintaining files of founded complaints of gender-biased conduct and sexual harassment for all judicial officers, and the actions taken in response to them.

Complaints of gender-biased conduct or sexual harassment concerning attorneys shall be referred to the presiding judge, clerk of court or program supervisor and submitted to the personnel officer for investigation. If there are reasonable grounds to believe that gender-biased conduct or sexual harassment has occurred, the Court Administrator shall refer it to the presiding judge or to the Professional Conduct Board, 109 State Street, Montpelier, VT 05609-0703, or both as appropriate. Complaints of gender-biased conduct or sexual harassment concerning an employee of another agency or an individual not employed by the Judicial Branch should be referred to the clerk of court, presiding judge, or the program manager of that particular Judicial Branch program. The complaint shall be referred immediately to the Judicial Branch personnel officer, who shall contact the other agency, determine how to file a complaint with that agency, and follow up to be sure the issue is being investigated and resolved. The complainant shall be informed in a timely manner of the progress of the complaint.

#### **B. Complaints Concerning Judicial Branch Employees**

In those instances where a complaint is made by a judicial officer, employee, volunteer, or other person concerning an employee or employees of the Judicial Branch, the complaint should be filed with any one of the following: the employee's immediate supervisor; the presiding judge, clerk or program manager; or the personnel officer of the Court Administrator's Office. A complaint may be made in confidence directly with the personnel officer of the Court Administrator's Office. The complaint should be in writing and should include the name or names of the alleged transgressor, a description of the incident with times, locations, specific words or actions, and the names of any possible witnesses to the incident. All complaints must be referred immediately to the personnel officer at the Court Administrator's Office. The personnel officer will coordinate with appropriate program managers to insure that a timely and complete investigation of the complaint is made. A written report of any investigation will be provided to the Court Administrator and the program manager. The program manager will identify and take prompt remedial action to stop the conduct and prevent its recurrence. Any applicable disciplinary action will be taken promptly. The program manager shall issue a written response to the complainant acknowledging the complaint and providing assurance as applicable that any prohibited activity will cease. Under normal circumstances the investigation and resulting report will occur within thirty days.

If the complainant is dissatisfied with the program manager's action, the complainant may grieve that action by filing a formal Step II grievance under Part VIII, Section A. of the Judicial Branch Personnel Policy.

If management initiates disciplinary action against any employee found to be responsible for gender-biased conduct or sexual harassment, the employee will be afforded full grievance rights under the Judicial Branch Personnel Policy.

## **VII. CONFIDENTIALITY**

All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. This complaint procedure is designed to encourage the reporting of all incidents of gender-biased conduct and sexual harassment as well as to protect the reputation of any employee wrongfully charged with such conduct. Employees shall be informed that if the employer has to defend any action taken because of a complaint, confidentiality cannot be guaranteed.

## **VIII. NO RETALIATION FOR FILING A COMPLAINT**

Any intimidation, retaliation or interference for filing a complaint or assisting in an investigation is prohibited, will not be tolerated, and will result in a sanction similar to those imposed for gender-biased conduct or sexual harassment.

## **IX. NOT EXCLUSIVE REMEDY**

The use of this procedure does not preclude any victim of discrimination or sexual harassment from pursuing any other legal remedy. To explore other remedies, employees may also contact the Human Rights Commission at 120 State Street, Montpelier, Vermont, 05602.

**APPENDIX E**  
**POLICY AND PROCEDURE**  
**REGARDING PERSONS WITH DISABILITIES**

**I. PURPOSE**

The Vermont Supreme Court hereby establishes the following policy and procedures for the Judicial Branch regarding the treatment of persons with disabilities by all judicial officers, managers, supervisors, employees and volunteers of the Judiciary, and all other persons who use court facilities, including court officers, attorneys, law enforcement officers, probation and parole officers, contractors, and vendors.

**II. POLICY**

Discrimination against persons with disabilities violates individuals' basic civil rights, undermines the integrity of the court system and the work place, and adversely affects the equal administration of justice. In addition, discrimination against persons with disabilities is prohibited by law.

The Judiciary supports the right of all persons, including those with disabilities, to have equal opportunity to hold employment in or enjoy access to the facilities and services offered by the Judicial Branch. It is the policy of the Judiciary to maintain a court atmosphere free of discrimination against persons with disabilities, including removing any physical, architectural, or communication barriers that would result in such discrimination, and providing reasonable accommodations to persons with disabilities to ensure equal opportunity to court employment and services.

All employees will be expected to comply with this policy and take appropriate affirmative measures to ensure that discrimination against persons with disabilities does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy, up to and including immediate dismissal.

Each judicial officer, manager, and supervisor within the Judiciary is responsible for providing a work place free from discrimination against persons with disabilities. This duty includes ensuring discussion of this policy with all employees and educating them concerning its application.

This policy applies to all employees of the Judiciary, whether compensated by the state or county, its offices, departments and subdivisions, and includes all temporary, permanent and contractual employees, court officers, applicants for employment and volunteers. It also applies to attorneys, litigants, and members of the public who use court facilities and who are alleged to have discriminated against persons with disabilities in regard to court employment or services.

### **III. DEFINITIONS**

#### **A. Person with a Disability**

A person with a disability is:

1. A person with a physical or mental impairment that substantially limits that person in some major life activity, such as walking, speaking, breathing, seeing, hearing, learning, working, or performing manual tasks.
2. A person with a record of such a physical or mental impairment.
3. A person who is regarded as having such an impairment.

Examples of disabilities covered by this policy include contagious and non-contagious diseases and conditions such as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addition and alcoholism.

Examples of conditions not covered under this policy include minor, non-chronic conditions of short duration, such as a sprain, common cold, infection or broken limb; sexual behavior disorders, sexual orientation, compulsive gambling, kleptomania, pyromania, or current use of illegal drugs.

#### **B. Reasonable Accommodation**

Reasonable accommodation is any modification or adjustment to a job, the work environment, or the way things are usually done that enable a qualified individual with a disability to have an equal opportunity to participate in and enjoy the benefits of employment with or the services of the Vermont Judicial Branch.

Examples of reasonable accommodation include auxiliary aids and services for persons with hearing impairments, such as qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, TTD's, or video text displays; and auxiliary aids and services for the visually impaired, such as qualified readers, taped texts, audio recordings, brailled materials, or large print materials.

In determining what type of auxiliary aid and service is necessary, primary consideration shall be given to the request of the individual with disabilities.

#### **IV. DISSEMINATION, EDUCATION AND TRAINING**

All employees, permanent and temporary, and other affected persons shall be informed of this policy and the Judiciary's commitment to a work place free of discrimination against persons with disabilities.

This policy statement and any supporting documents shall be included in all orientation material, programs and informational packets.

The Court Administrator shall ensure that all judicial officers, managers and supervisors are trained to administer this policy, to respond to complaints brought to their attention and to rectify situations that create an environment which is discriminatory against persons with disabilities.

The Court Administrator shall ensure that all employees are informed of the procedure for reporting an incident of discrimination against persons with disabilities.

Each judicial officer, manager, supervisor and employee is personally responsible for ensuring that his or her conduct does not discriminate against persons with disabilities, and is responsible for cooperating in any investigation of alleged discrimination against persons with disabilities if requested to do so by the person conducting the investigation.

#### **V. COMPLAINT PROCEDURE**

The following procedures have been developed to ensure that complaints are investigated quickly in a manner that is fair to all. All employees are encouraged to report any incidents of discrimination against persons with disabilities. Complaints will be promptly responded to and every effort will be made to resolve all complaints as quickly as possible.

An individual who believes he or she may be the victim of such behavior and wishes to discuss the situation prior to making the complaint should contact his or her supervisor, the program manager, the Judicial Branch Personnel Officer, the Director of Trial Court Administration, or the Director of Administrative Services as soon as possible, who shall be available to meet with the individual, if requested, to discuss the situation and to provide information regarding discrimination against persons with disabilities, reasonable accommodation and the complaint procedure.

##### **A. Complaints Concerning Employment with the Judicial Branch**

Complaints of discrimination against persons with disabilities who are currently employed by or are seeking employment with the Judicial Branch shall be referred to the supervisor of the position, the program manager, or the Judicial Branch Personnel Officer. All complaints shall be reported to the Judicial Branch Personnel Officer. A confidential investigation shall be made within forty-eight hours and shall be concluded within ten days. If there are reasonable grounds to believe that discrimination against persons with disabilities has occurred, remedies shall be undertaken to correct the situation as soon as practicable. The complainant shall be informed in a timely manner of the progress of the complaint, the investigation, and the action taken in response. The

Judicial Branch Personnel Officer shall be responsible for establishing and maintaining files of founded complaints of discrimination against persons with disabilities in the area of employment.

If the complainant is a current Judicial Branch employee and is dissatisfied with the outcome, the complainant may grieve that action by filing a formal Step II grievance under Part VIII, Section A. of the Judicial Branch Personnel Policy.

#### **B. Complaints Concerning Access to Services**

In those instances where a complaint is made regarding access to court services, the complaint shall be made to any of the following: the presiding judge, clerk or program manager, the Director of Trial Court Administration, or the Director of Administrative Services. All complaints shall be reported to the Director of Administrative Services. A confidential investigation shall be made within forty-eight hours and shall be concluded within ten days. If there are reasonable grounds to believe that discrimination against persons with disabilities has occurred, remedies shall be undertaken to correct the situation as soon as practicable. The complainant shall be informed in a timely manner of the progress of the complaint, the investigation, and the action taken in response. The Director of Administrative Services shall be responsible for establishing and maintaining files of founded complaints of discrimination against persons with disabilities in the area of access to services.

If management initiates disciplinary action against any employee found to be responsible for discrimination against persons with disabilities, the employee will be afforded full grievance rights under the Judicial Branch Personnel Policy.

### **VI. CONFIDENTIALITY**

All actions taken to investigate and resolve complaints through this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. This complaint procedure is designed to encourage the reporting of all incidents of discrimination against persons with disabilities as well as to protect the reputation of any employee wrongfully charged with such conduct. Employees shall be informed that if the employer has to defend any action taken because of a complaint, confidentiality cannot be guaranteed.

### **VII. NO RETALIATION FOR FILING A COMPLAINT**

Any intimidation, retaliation or interference for filing a complaint or assisting in an investigation is prohibited, will not be tolerated, and will result in a sanction similar to those imposed for discrimination against persons with disabilities.

### **VIII. NOT EXCLUSIVE REMEDY**

The use of this procedure does not preclude any victim of discrimination from pursuing any other legal remedy. To explore other remedies, employees, applicants, and users of court services may also contact the Human Rights Commission at 120 State Street, Montpelier, Vermont, 05602, the Attorney General's Office at 109 State Street, Montpelier, Vt., or the Equal Employment Opportunity Commission.

## **APPENDIX F**

### **JUDICIAL EMPLOYEES TUITION REIMBURSEMENT POLICY**

#### **PURPOSE**

To provide permanent status non-judicial employees of the Judiciary with career development opportunities by establishing policies and procedures relating to tuition reimbursement for post-secondary and/or graduate level courses taken by employees during off-duty hours.

#### **POLICY**

To the extent of funding authorized by the Court Administrator, reimbursement of tuition for job-related educational courses or job-related pursuit of post-secondary degrees may be authorized for permanent status employees of the Judiciary.

The Court Administrator shall appoint a three-person committee to process applications and make recommendations to the Court Administrator for tuition reimbursement. Any tuition reimbursement must be approved by the Court Administrator.

#### **QUALIFICATIONS**

The applicant must be a permanent status, non-judicial employee with at least two years of employment in the Vermont Judiciary at the time the class begins and must still be employed by the Judiciary upon completion of the course.

#### **GENERAL INFORMATION**

All courses must be of college level, undergraduate or graduate. The course number and a brief course description must be included in the application along with an articulation from the employee of how the knowledge gained will apply to the job or enhance the employee's performance. To be eligible for tuition reimbursement, the employee must complete the course with a passing grade of at least a C-.

No employee shall receive reimbursement for more than one course per year. The Court Administrator may authorize reimbursement for one additional course within the year if it is recommended by the Committee and is essential to the operating needs of the Judiciary. The maximum reimbursement shall be up to 100% of the actual cost of tuition for courses that are deemed to be directly job-related. For courses that are deemed to be indirectly job-related such as required electives outside the major course of study, tuition reimbursement may be granted up to 50% of the cost of tuition. Only tuition fees may be included. No other fees or expenses such as travel, registration, activity fees, insurance, parking, or textbook purchases will be reimbursed.

Reimbursement must be for a job-related, off-duty course or a course of study as determined by the Committee. The term job-related means that there is a reasonable expectation that tangible benefits will accrue to the Judiciary by allowing the employee to take a course which will enable him or her to keep up with changing concepts or developments in their respective fields, or the course will result in increased knowledge or skill and is aimed primarily at improving the

employee=s performance and upward mobility. The term off-duty means that the course is conducted during a period when the employee is not expected to be on the job, for example, during hours outside the normal work schedule or while on approved leave. The Judiciary will only pay for courses where there is a reasonable relationship between the course and the employee=s current or progressive employment in the Judiciary.

### **FUNDING LIMITATION**

When applications for reimbursement exceed available funds, the Committee shall give priority to employees working toward a post-secondary degree who have previously participated in the program and/or courses that are directly job-related. The Committee may adjust the rate of reimbursement to fit requests within the budget.

### **PROCEDURE FOR APPLICATION**

Requests for reimbursement shall be submitted for review by the Judicial Tuition Reimbursement Committee before the course begins. At a minimum, the Committee shall schedule two application periods per year with sufficient lead time to allow employees to request reimbursement for courses that begin in the fall, winter and summer semesters. The Committee shall allocate the available funding to meet the needs of employees considering the semester schedules of the educational institutions.

There will be no reimbursement of tuition if prior approval was not obtained. A notice of approval or disapproval will be mailed to the applicant after receipt and review of the application by the Committee.

### **PROCEDURE FOR REIMBURSEMENT**

Upon completion of the course the applicant shall submit:

1. A request for reimbursement with a copy of the notice of approval,
2. A grade report, and
3. Proof of tuition payment.

**APPENDIX G**  
**POLICY AND PROCEDURE REGARDING**  
**ELECTRONIC COMMUNICATIONS AND INTERNET USE**  
**(Interim Policy)**

**I. PURPOSE**

The Vermont Supreme Court hereby establishes the following policy and procedures for the Judicial Branch regarding electronic communications and internet use. Internet services and e-mail capabilities are a resource to facilitate the work of the Judiciary. This policy provides for use by authorized Judiciary employees.

**II. POLICY**

Employees shall not use, or attempt to use Judicial personnel, property or equipment for their private use or for any use not required for the proper discharge of their official duties. This policy allows a limited degree of personal use of Judiciary telephones for private calls when such use meets certain guidelines. Similar allowances will be applied to internet services and email capabilities where personal use meets all of the following tests. Personal use will be allowed only if all of the following are met:

1. The user must be authorized to use the equipment by management. Managers will exercise reasonable discretion in determining which employees will be denied personal use of internet services, including when such use is denied because of abuse or violation of this policy.
2. The use must not interfere with an employee's performance of job duties.
3. The use must not impose a burden on State resources as a result of frequency or volume of use.
4. The use must not otherwise violate this policy, including the prohibition on access of sites that include potentially offensive or disruptive material. The fact that the use occurs in a private setting or outside of scheduled work hours does not affect this prohibition.

The Judiciary purchases Internet services for use by the Judiciary to meet the operational and programmatic needs of the Judiciary. This policy provides guidelines for acceptable access and use and prohibits any Internet use by Judiciary employees that violates Federal or State laws or regulations.

As defined by this policy, systems and information are Vermont Judiciary property. All systems and information therein are, and shall remain, the property of the Vermont Judiciary, subject to its sole control. The Judiciary owns all legal rights to control, transfer, or use all or any part or product of its systems. All uses must comply with this policy. Nothing in this policy shall be construed to abridge any rights of the Judiciary to control its systems, their uses or information. This policy does not impair the right and obligation of the Judiciary to limit access

to systems and records that contain information that is subject to any statutory, regulatory, or common law privilege or obligation to limit access, nor does it alter the Judiciary's rights or obligations under the Vermont public records law (1 V.S.A. ' 315, et seq.).

The Judiciary has full control and access as defined below:

**Control.** An appointing authority of the Judiciary reserves and intends to exercise all rights relating to information used in its systems. The Judiciary may trace, review, audit, access, intercept, block, restrict, screen, delete, recover, restore, publish or disclose any information at any time without notice.

**Access.** Passwords, scramblers or various encryption methods may not be used without Judiciary approval, access and control. No user may attempt to access, copy, forward, delete, or alter the messages of any other user without Judiciary authorization. The Judiciary's system may not be used to attempt unauthorized access to any information system.

### **III. DEFINITIONS**

AJudiciary@ means the Judicial Branch of the State Government.

"Judiciary systems" or "systems" means all software, electronic information devices, interconnections, intranet and technical information related to them. Systems include other systems accessed by or through those devices, such as the Internet, e-mail, or telephone services. Systems include designs, specifications, passwords, access codes and encryption codes.

"Electronic communications" means electronic mail and Internet service access.

"Information" means information of any kind, used in any way, in Judiciary systems. Examples include messages, communications, e-mails, files, records, recordings, transmissions, signals, programs, macros, and data.

### **IV. GUIDELINES FOR GENERAL USE OF SYSTEMS AND INTERNET SERVICES**

1. Employees with access to systems or the Internet have the responsibility not to disclose their access codes or passwords.
2. No employee shall send e-mail that is, or appears to be, sent from another employee's e-mail or that attempts to mask identity.
3. Judiciary employees must conform to reasonable professional standards for use of Internet services as detailed in this guideline. This includes a prohibition against any activity that impairs operation of any Judiciary computer resource. Such activities include, but are not limited to, sending junk mail or chain letters, injecting computer viruses or mass mailings via email.
4. Employees must respect intellectual property rights at all times when obtaining information over the Internet. Copyrighted or licensed information shall be used only with full legal right to do so.

5. Use of the Internet is for Judiciary business. The only exception is for personal use that fully complies with the limited personal use described by this policy. Any use that is not for Judiciary business or authorized limited personal use consistent with this policy may result in revocation of Internet access, other appropriate administrative action, or disciplinary or corrective action.
6. Use of Judiciary systems or printers for offensive or disruptive purposes is prohibited. This prohibition includes profanity, vulgarity, sexual content or character slurs. Inappropriate reference to race, color, age, gender, sexual orientation, religions, national origin or disability is prohibited.
7. The Judiciary has the right to monitor the systems and Internet activities of employees. Monitoring may occur, but is not limited to, occasions when there is a reason to suspect that an employee is involved in activities that are prohibited by law, violate Judiciary policy or regulations, or jeopardize the integrity and/or performance of the computer systems of the Judiciary. Monitoring may also occur in the normal course of network administration and trouble-shooting, or on a random basis. The Judiciary must ensure that systems administrators and technicians involved in monitoring, or who otherwise have access to systems and records that contain information that is subject to any statutory, regulatory, or common law privilege or obligation to limit access, are appropriately trained on the requirement to respect such privilege or confidentiality and directed to do so.
8. Use of fee-for-service providers is not allowed unless the necessary approvals and funding have been obtained in advance. An employee who obligates the Judiciary to pay for services without prior approval may be held personally liable for those costs and may be subject to disciplinary action up to and including dismissal.
9. Prohibited activities also include, but are not limited to the following: lobbying public officials or asking others to lobby in their behalf, printing and/or distributing information from the Internet that is obscene, potentially offensive, harassing or disruptive.
10. Using or allowing others to use Judiciary Internet services or e-mail accounts to conduct transactions or advertising for a personal profit-making business is strictly forbidden.

**APPENDIX I  
JUDICIAL PERSONNEL POLICY**

**SALARY GUIDELINES FOR  
EXEMPT SUPERIOR COURT CLERKS, THE JUDICIAL BUREAU MANAGER,  
THE ENVIRONMENTAL DIVISION MANAGER AND COURT OPERATIONS MANAGERS**

Authorized and adopted by the Vermont Supreme Court, Effective July 1, 2010. These guidelines are to be attached and amended to the current Vermont Judicial Branch Personnel Policies, Part III, "Classification and Compensation Plan", as revised March, 1998.

**INTRODUCTION**

The purpose of this policy is to establish general guidelines for the hiring of Exempt Superior Court Clerks, Judicial Bureau Manager, Environmental Division Manager and Court Operations Managers of the Vermont Court System. This policy is not intended to alter any other Judiciary policies not specifically set forth below.

**Special Considerations During the Period of Restructuring/Transition, from July 1, 2010 through February 1, 2011:** Current judicial branch Court Managers, County Superior Court Clerks, and Court Operations Managers who apply for and are successful candidates for one of these positions, shall receive at least a 5% increase in their current base salary and will not be offered the starting salary for the position.

**Superior Court Units:** The Court Administrator has established the following three levels of Superior Court Units, with designations also for the Judicial Bureau and the Environmental Division. In doing so, some consideration was given to the following factors: the Unit's caseload; the size of the general population the Unit serves; staffing; geography; and the most efficient use of judicial resources. In some instances, a Superior Court Clerk may be assigned supervision of multiple Superior Court Units.

Level III	Level II	Level I
<b>Chittenden</b>	<b>Bennington; Caledonia/Essex; Franklin/Grand Isle; Rutland; Washington; Windham; Windsor; and Judicial Bureau.</b>	<b>Addison; Lamoille; Orange; Orleans; and Environmental Division.</b>

**Salaries for Exempt Superior Court Clerks, the Judicial Bureau Manager, the Environmental Division Manager and Court Operations Managers**

<b><u>Level III Unit</u></b>	<b><u>Starting Annual Salary</u></b>	<b><u>hourly</u></b>	<b><u>Maximum Annual Salary</u></b>	<b><u>hourly</u></b>
Superior Court Clerk III	\$ 78,189.00	\$ 37.59	\$ 101,733.60	\$ 48.91
Court Operations Manager III	\$ 64,627.00	\$ 31.07	\$ 84,438.89	\$ 40.60
<b><u>Level II Unit</u></b>				
Superior Court Clerk II	\$ 71,921.00	\$ 34.58	\$ 93,594.91	\$ 45.00
Judicial Bureau Manager	\$ 71,921.00	\$ 34.58	\$ 93,594.91	\$ 45.00
Court Operations Manager II	\$ 59,456.84	\$ 28.59	\$ 77,683.78	\$ 37.35
<b><u>Level I Unit</u></b>				
Superior Court Clerk I	\$ 64,627.00	\$ 31.07	\$ 84,438.89	\$ 40.60
Environmental Division Manager	\$ 64,627.00	\$ 31.07	\$ 84,438.89	\$ 40.60
Court Operations Manager I	\$ 53,640.41	\$ 25.79	\$ 70,084.28	\$ 33.69

**Salary Progression:** Normal Cost of Living Adjustments (COLAs) may apply and as approved by the General Assembly. After two full years of employment with satisfactory performance, the salary may be increased by up to 4.8%. In addition to any COLA, the Court Administrator may grant a special salary adjustment of up to a 5% increase to any Superior Court Clerk or any Operations Manager whose job duties have significantly increased, or whose contributions to the judiciary in the preceding year are deemed especially significant.

**Hire into Range:** As approved by the Supreme Court and the Court Administrator, a candidate for one of these positions may be hired above the base salary if their unique qualifications and extraordinary circumstances warrant. However, in no case can the starting hire into range salary exceed an amount 20% over the starting base salary for each position. If an initial hire receives a starting salary into range, then there shall be no added increase to their salary after two full years of employment with satisfactory performance.

**Transfer from the Executive Branch:** When a current executive branch employee is appointed to a Superior Court Clerk or Court Operations Manager, the Supreme Court and the Court Administrator may authorize such employee to retain their present salary level, even though it is in excess of the Hire into Range salary limits as set forth above.

***Effective July 1, 2010***

**Authorized by:** Robert Greemore /s/ **Date: June 8, 2010**  
 Robert Greemore, Court Administrator, Vermont Supreme Court

**Addendum to:** Vermont Judicial Branch Personnel Policies, Part III, *Classification and Compensation Plan*, "Judicial Personnel Policy on Salary Guidelines for Exempt Superior Court

Clerks, Judicial Bureau Manager, Environmental Division Manager and Court Operations Managers”