



***Key Elements of an Effective Rule of Court
on the Role of the Presiding Judge in the Trial Courts***

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Key Elements of an Effective Rule of Court on the Role of the Presiding Judge in the Trial Courts

In April 2005, the National Center for State Courts hosted the *Strengthening Court Management by Strengthening the Presiding Judge/Court Executive Team Forum*, with presiding judges, court administrators, educators, and researchers from 13 different states. At the conclusion of the Forum, participants voted on the ways in which the NCSC could most effectively support courts' efforts to strengthen the executive team. This document addressing rules of court was prepared in response to the priorities expressed by Forum attendees.

The *Key Elements of an Effective Rule of Court on the Role of the Presiding Judge in the Trial Courts* is an attempt to delineate the provisions that should be included in a state's Rule of Court. The purpose of this document is to provide a basis from which judicial councils, presiding judges, and court administrators could work to strengthen the effectiveness of the executive team in court management. These *Key Elements* primarily contain the prospective elements of a state-level rule of court. Those courts with substantial self-governance may consider including provisions in local rules that delineate specific local policies. This document does not purport to create a model rule covering presiding judges. Instead it attempts to provide a template of issues to be addressed by a rule governing the role of the presiding judge and then provides examples of how individual states have addressed the specific issues.

Since states and courts differ on many dimensions, we anticipate that this document will serve as a starting point for improving rules of court and will be adapted by each interested state or court according to their size, location, caseload, resources, and existing policies and rules of court. The role, relationship, and responsibilities of presiding judges vary considerably across the country and will be dictated by many factors, including, for example, the extent to which a court system is unified and the role of the chief justice in administration. The examples given from individual states attempt to provide a broad range of responses that can be tailored to the system and structure in place in any given state.

Upon reflection, it is clear that some of the policies and procedures that are appropriate and/or necessary for a presiding judge of a small court do not make sense for a presiding judge in a large court, and vice versa. The same point might be made about "best practices." A rule that is comprehensive and complete is certainly desirable, but the issue of exactly which provisions are "best" and exactly how these provisions should be written is a matter for states to decide. For example, either appointment or election can serve as a method of selection; what matters most is the quality of leadership and management exercised by the presiding judge regardless of method of selection. It is not empirically clear whether one method tends to produce better presiding judges than another.

Each provision of the *Key Elements* has three sections. The *Description* contains a definition of the purpose of the rule; the *Samples* provide examples of the ways in which other courts have phrased specific rules or statutes, and the *Commentary* discusses the variety of ways in which a rule can be laid out and issues related to specific aspects of the rule under consideration. The *Commentary* does not provide a concrete recommendation as to the policies and procedures that all courts should adopt.

We hope that this guide will provoke thoughtful discussion between the members of court executive teams, and will serve as a tool for enhancing the success of the management partnership between presiding judges and court administrators.

1. Term of Office

Description:

The length of time that a presiding judge shall hold the position before either the presiding judge must be re-selected, or a different judge must be selected as presiding judge.

This rule could also specify whether successive term(s) are permitted, and if so, specify any limitations in the number or length of the subsequent term(s).

Samples:

“The presiding judges of the superior court in each county shall serve a term of five (5) years. The term of the presiding judge may be extended as determined by the Supreme Court” (Arizona, Administrative Rule V-A § II).

“A presiding judge in a court with two judges must be elected for a term of not less than one year. A presiding judge in a court with three or more judges must be elected for an initial term of not less than two years. The presiding judge may serve additional terms of such duration as set by internal local rule or policy” (California, Rule 6.602©).

“...the presiding judge of the criminal and civil divisions and the family division shall serve at the pleasure of the chief judge” (Rules of Practice for the Eighth Judicial District Court of the State of Nevada, Rule 1.30, § 18 iii).

“The presiding judge’s term of office is presumed to be two years. A district, by majority vote of the judges of the court, may opt for a one year term of office and may re-elect a judge to serve successive terms of office as presiding judge” (Utah, Rule 3-104 § 1A).

“The Presiding Judge shall be elected for a term of not less than two years, subject to reelection. The term of the Presiding Judge shall commence on January 1 of the year in which the Presiding Judge’s term begins.” (Washington, General Rule 29 sub § a (2)).

Commentary:

Terms of office vary from one year to 12 years, or at the pleasure of the appointing authority. In many states, judges can succeed themselves and serve multiple terms, though some are term limited.

It is generally agreed that the minimum effective term length for a presiding judge should be no less than two years. A term of less than two years may not allow the presiding judge to set goals and implement action plans as co-leader, working with the Court Administrator, of the court executive team. The possibility of renewable or successive terms is important to facilitating continuity in the leadership of the court, as well as to institutionalizing effective management practices. The issue of continuity is not simply an issue of term length; if the court develops a strategic plan or business plan (whose typical life span is 5-6 years), then the job of the leadership team is to implement that plan, rather than impose individual agendas that may vary highly from one presiding judge to the next.

2. Appointment/Selection

Description:

This provision refers to the method by which the presiding judge is selected, as well as to who selects the presiding judge.

Current methods of selection include: 1) a majority vote by the trial court's judges; 2) appointment by the Chief Justice, 3) appointment by the executive or legislative branch (e.g., Mayor, City Council, or Governor); or 4) default to seniority or a judge volunteers to assume the position. The predominant method of selection is by a majority vote of the court's judges.

Sample:

“The chief judge of a District of Columbia court shall be designated by the President of the United States from among the judges of the court in regular active service, and shall serve for a term of four years or until a successor is designated. The chief judge shall be eligible for redesignation. The chief judge may relinquish that position, after giving notice to the President” (District of Columbia Official Code, DC ST § 11-1503(a)).

“The judges of each multi-judge court, by a majority vote of the judges of the court, shall elect a presiding judge from the judges of the court. If the judges are unable because of equal division of the vote to elect a presiding judge, the judge having the longest total service on the court shall serve as presiding judge for one term. If two or more judges have equal periods of service on the court, the presiding judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect a presiding judge, the judges of the court shall rotate the position based on the order of seniority as determined by the total length of service on the court” (Rules of Superintendence for the Courts of Ohio, Rule 3, § (A)(1)).

“The Chief Justice of the Supreme Court shall appoint after conferring with and seeking the advice of the Supreme Court, and may remove at pleasure: . . .(1)(b) The presiding judge for each judicial district. . .(5) The Chief Justice shall give written notice of the judge appointed as Chief Judge or presiding judge to each judge of the court concerned not later than 10 days before the effective date of the appointment. A majority of the judges of the courts concerned may disapprove the appointment by a written resolution signed by each judge disapproving the appointment and submitted to the Chief Justice before the effective date of the appointment. If the appointment is so disapproved, the Chief Justice shall appoint another judge as Chief Judge or presiding judge, and shall notify each judge of the courts concerned as provided in this subsection. If the courts concerned have five or more judges, a second appointment is subject to disapproval, as provided in this subsection, by a majority of the judges of the courts concerned. A third appointment is not subject to disapproval under this subsection” (Oregon Revised Statutes, Chapter 1, §1.003).

“The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. . .In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years” (Utah, Rule 3-104 § 1A).

Commentary:

To preserve judicial independence and honor the separation of powers the best practice is for a presiding judge to be either elected by a majority of the court's judges, or appointed by the Chief Justice. Regardless of the size of the court, a separation of powers issue is inherent when the presiding judge is appointed by a legislative branch or executive branch official. Where a trial court presiding judge is appointed by legislative or executive branch officials, it is desirable to have a formal written policy, rule, or statutory provision that underscores the importance of the separation of powers doctrine acknowledging that the court and its presiding judge are vested with the responsibility to operate independently in the administration of justice in the jurisdiction. One way to do this is for the executive to delegate its authority to an independent committee or commission made up of appointees from the judiciary and the bar, as well as the executive, who serve for fixed terms.

In courts in which the presiding judge is elected by trial court judges, larger courts may benefit from establishing a nominating committee, which puts forth a name of a judge or judges that the entire bench can consider for the position of the presiding judge. This can help focus the selection on objective criteria and qualifications, and reduce subjectivity and lobbying efforts within the bench, which can be distracting at best and divisive at worst.

Courts that rely on selection by a Chief Justice can also utilize a check on that authority. For example, in Oregon, a majority of a trial court's judges are permitted to veto the Chief Justice's first appointment. In courts with five or more judges, a majority of the trial court's judges are permitted two vetoes of the Chief Justice's selection.

Particular attention should be paid to the continuity of court operations and the transition from one presiding judge to the next, and the management agenda/strategic plan for the court or jurisdiction. Courts may also wish to promote continuity through creation of one or more assistant presiding judge positions (see #6 below). In addition, a presiding judge can offer other bench officers the opportunity to serve as acting presiding judge in the presiding judge's absence, and in this way gain knowledge of suitable future candidates for the position.

3. Selection Criteria

Description:

This provision refers to the criteria that must be met by any potential presiding judge in order to be considered for this executive position.

Sample:

“A presiding judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court. Nomination and selection of a presiding judge should take into consideration the judge's (1) management and administrative ability, (2) interest in serving in the position, (3) experience and familiarity with a variety of trial court assignments, (4) ability to motivate and educate other judicial officers and court personnel, (5) ability to evaluate the strengths of the court's bench officers and make assignments based on

those strengths as well as the best interests of the public and the court, and (6) other appropriate factors” (California, Rule 6.602(b)).

Commentary:

The development of selection criteria may be useful in attracting specific skill sets or experience levels to this executive judicial position. It may also help to steer courts away from the rotation, seniority or volunteer selection method, which often fails to account for a judge’s general interest in the position or ability to perform the position successfully. These criteria may also be used to develop training for prospective presiding judge candidates, that is, as part of a succession planning strategy. In addition to the criteria mentioned in the California example above, the judge’s history or prior experience with administrative duties is an important factor to consider.

Two issues must be kept in mind when considering the selection criteria: expertise and continuity. The criteria need to help the presiding judge selector(s) identify candidates with the expertise to effectively lead the court as part of the court executive team, and the entire process needs to ensure some level of continuity in the court’s management and day-to-day operations.

4. Removal of Presiding Judge from Office

Description:

This provision allows for the removal of the presiding judge from office prior to the normal conclusion of his/her term.

Samples:

“A [presiding] judge may be removed as [presiding] judge by the supreme court, acting as the administrative supervisory body of all courts, or may be removed by a two-thirds vote of the active judges” (Florida, Judicial Administration Rules, Rule 2.050 § © para. 2).

“The Presiding Judge may be removed by a majority vote of the judges of the district unless otherwise provided by local court rule” (Washington, General Rule 29 sub § a (5)).

Commentary:

This provision provides the necessary mechanism for removing the presiding judge, should the need arise, whether due to abuse of power, ethical violations, or other reasons. In states where the presiding judge serves at the pleasure of a higher court, the presiding judge may simply be removed by that body. Some states in which the presiding judge is elected permit this method as well. Others require that the judges of a court vote to remove the presiding judge, requiring either a simple majority or a super majority.

5. Caseload Adjustment

Description:

This provision expressly provides the presiding judge with the option of a reduced caseload to permit sufficient time to work on administrative and court-wide policy matters.

Sample:

“To the extent possible, the judicial caseload should be adjusted to provide the presiding judge with sufficient time and resources to devote to the management and administrative duties of the office” (California, Rule 6.602(e)), (Washington, General Rule 29 sub § (d)).

“Upon the election of a new presiding judge, the caseload of the new presiding judge shall be adjusted with the out-going presiding judge in the most efficient manner to accommodate the judiciary, the bar and the litigants” (Rules of Practice for the Eighth Judicial District Court of the State of Nevada, Rule 1.63).

Commentary:

Since the position of presiding judge requires the devotion of time to administrative, policy, and diplomatic matters, the legitimate need and ability for caseload adjustment or reduction should be provided. While the ability of the court to allow for caseload reduction may vary by the size of the court, the reality of the role of the presiding judge, especially in larger courts, is such that a significant amount of time will need to be spent on management and operational matters off the bench.

Those courts that have established weighted caseload systems for assessing judicial workload account for the time of the presiding judge by allowing non-case-related time to be computed for each judicial position, including that of the presiding judge. Thus, while this approach to judicial workload does not attempt to suggest what kind of caseload reduction a presiding judge needs in general, it does account for this administrative time by subtracting that time from the total amount of case-related judge time available to the court.

Without a provision for caseload adjustment, presiding judges may feel pressured to maintain full caseloads in order to assist with the court’s overall caseload or maintain communication with and/or legitimacy in the eyes of the other trial judges. In order to address such pressures, the best practice is to presume a caseload adjustment for the presiding judge without prescribing the size of the adjustment. Courts, judicial councils, and Administrative Offices of the Courts must recognize the administrative workload of the presiding judge and adjust accordingly.

6. Assistant & Acting Presiding Judge

Description:

This provision refers to a position for another judge to carry out the duties of the presiding judge when the presiding judge is unavailable or unable to do so. It also includes selection methods for that position.

Samples:

“In the event a [presiding] judge for a district [...] with one or more [district] judges is unable, due to mental or physical incapacity, to exercise the authority vested in him by the statute, and the Chief Justice, in his discretion, has determined that such incapacity exists, the Chief Justice shall appoint an acting [presiding] judge from the other ... judges of the district ..., to exercise,

temporarily, the authority of the [presiding] judge. Such appointee shall serve at the pleasure of the Chief Justice and until temporary appointment is vacated by appropriate order” (North Carolina, G.S. 7A – 41.1 § (e)).

“The presiding judge shall designate a judge of the district as acting presiding judge when the presiding judge will not be within the judicial district, or when the office of presiding judge will be vacant for 40 days or less. The presiding judge shall notify the Clerk of the Supreme Court of the designation” (North Dakota, Supreme Court Administrative Rule 2 § 6).

“In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge... When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform the other duties assigned by the presiding judge or by the court” (Utah, Rule 3-104 §§ 1B (© – ii)).

Commentary:

Some states require a court to attain a certain size (i.e., have a certain number of judges) before the position of assistant presiding judge is created. The assumption is that, as a court grows larger, the administrative responsibilities grow as well, and creating an additional position can help distribute the administrative workload. When the position is permanently established, term length arrangements typically mirror those for the presiding judge. The method for selection usually mirrors that for the presiding judge. The court may consider adopting a process whereby the assistant presiding judge succeeds the presiding judge at the end of the term. This would ensure a certain level of continuity during administrative changes, as well as capitalize on the experience and skill developed by the assistant.

Courts that have several divisions under the administration of one presiding judge (e.g. juvenile, civil, criminal) might consider establishing an assistant presiding judge role for each of the divisions.

Courts that do not have a permanent assistant presiding judge position should allow for the creation of a temporary, acting presiding judge to cover situations like the absence or illness of the presiding judge. When the presiding judge will be out of the office for a full day, the main benefit of having an acting presiding judge designated is the continuity of operations. The acting presiding judge does not need to have the authority to make policy revisions, but having the authority to make decisions that will allow business to proceed as usual ensures that the absence of the presiding judge from the courthouse will not interrupt courthouse operations.

7. Judicial Assignments

Description:

This duty involves assigning judges to specific cases, calendars, divisions, problem-solving courts, or to court locations across a region, as well as assigning specific judges to hear particular cases. This duty may also include assignment or coordination of senior or pro tem judges. Courts currently use multiple systems, including direct assignment by the presiding judge,

assignment by a presiding judge of a higher court, and random assignment of judges to cases, as well as allowing for the presiding judge to change those assignments when good cause is shown.

Samples:

“Justices or judges who disqualify themselves for cause shall set forth the specific reasons for the disqualification in writing. Superior court judges or district court judges shall send the statement of reasons to the presiding judge of their judicial district and a copy of the statement to the administrative director” (Alaska Rules of Administration, Rule 3 § f).

“Assignment of a judicial officer from the court location of the judicial officer’s residence to locations within the same judicial district shall be made by the presiding judge of the judicial district or by the presiding judge’s designee. In making such assignments, due regard shall be had of the status of accumulated calendars of the courts in the district to the end that judicial officers are assigned to such courts as needed in order to keep the calendars current. . . . When the volume of judicial business in the superior or district court in any judicial district warrants the temporary assignment thereto of one or more judicial officers from another judicial district, the presiding judge in the judicial district requiring such temporary assignment shall so advise the administrative director, giving details as to the reasons for the assignment, the length of time and the location of the temporary assignment” (Alaska Rules of Administration, Rule 24).

“The [Administrative] plan shall describe the process for the assignment of cases and shall control the assignment and allocation of cases in the judicial circuit. In the absence of good cause to the contrary, the plan of assignment of cases shall assume (i) random selection of unrelated cases; (ii) a substantially equal apportionment of cases among the circuit judges of a judicial circuit; and (iii) all matters connected with a pending or supplemental proceeding will be heard by the judge to whom the matter originally assigned” (Arkansas, Administrative Order 14 § 3a (1) para. 1).

“The [presiding] judge, subject to the general supervision of the Chief Justice of the Supreme Court [of North Carolina], has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers include, but are not limited to, the following: . . . (7) Arranging sessions, to the extent practicable for the trial of specialized cases, including traffic, domestic relations, and other types of cases and maximum practicable specialization by individual judges...” (North Carolina, G.S. 7A – 146).

“If a presiding judge determines it is inappropriate for the presiding judge to preside in an assigned case, the presiding judge shall refer the case to the Clerk of the Supreme Court [of North Dakota] for reassignment by the Chief Justice, unless the judicial district has established pursuant to the North Dakota Rule on Local Court Procedural Rules an appropriate alternative case assignment procedure approved by the Supreme Court” (North Dakota, Supreme Court Administrative Rule 2 § 9 para. 2).

“Upon the approval of a request for assignment pursuant to substitution or disqualification, the chief judge shall reassign the case or request reassignment by the Director of State Courts. Reassignment shall be made using the following criteria: (1) availability of judges; (2) physical

proximity of judges; (3) equalization of caseload; (4) other appropriate administrative considerations. . .” (Wisconsin, Uniform Rules for Trial Court Administration, TCA 4).

Commentary:

In some states, the Rule of Court directs the presiding judge to assign judges to certain courts or calendars based on existing specialization of judges and the development of new areas of specialization. In others, length of assignments or rotation of assignments may be governed by local rule or custom. No matter how often it is done or the criteria used, it is the duty of the presiding judge to formally make these assignments, even if randomly as seen in the Arkansas Rule of Court example above.

The presiding judge must balance expertise and fairness in assignments perceived as hardships (e.g., to a remote location), conveying in theory and practice that assignments are based on objective criteria known to all.

While not addressed by the samples above, another issue to consider within this provision is the way in which assignments to particular court divisions are made. The presiding judge needs to balance the benefits of mandatory rotation such as cross-training purposes with accepting specific requests for division assignment and with assigning judges to divisions where they are most effective and perhaps “fit” best. These decisions may be driven in part by the individual judges who work within the court. At times, the court may be forced to simply meet immediate needs, while at other times, the presiding judge may be able to take a more strategic approach to cross-training new judges on the bench, and be able to capitalize on the strengths of seasoned judges.

8. Supervise Case/Docket Management

Description:

This duty entails moving cases efficiently and effectively through the judicial system, ensuring justice through timely resolution. This provision allows the presiding judge to request additional judges from outside the circuit or district if the caseload or other circumstances warrant it.

Samples:

“If it appears to the [presiding] judge that the speedy, efficient, and proper administration of justice so requires, the [presiding] judge shall request the chief justice of the supreme court [of Florida] to assign temporarily an additional judge or judges from outside the circuit to duty in the court requiring assistance, and shall advise the chief justice whether or not the approval of the chief judge of the circuit from which the assignment is to be made has been obtained. The assigned judges shall be subject to administrative supervision of the chief judge for all purposes of this rule” (Florida, Judicial Administration Rules, Rule 2.050(b) (4)).

“The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets...Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the Administrative Office, request assistance of visiting judges when needed to handle the workload of the court.

The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases” (Utah, Rule 3-104 §§ (3) (E) (© – iv)).

Commentary:

This provision is mainly concerned with workload and caseload management. Along with this duty, the presiding judge is often provided with some explicit means of requesting the aid of judges from other judicial districts, other courts, or from a cadre of certified judicial adjuncts (e.g. pro tempore judges, retired judges) when needed. In some states, this is done by placing a request for the additional judge with the presiding judge of a higher court, often the Chief Justice of the state’s highest court. In other states, this may be achieved by a direct arrangement between the presiding judges of the courts involved.

9. Cases under Advisement

Description:

This provision more directly stipulates the length of time a court may hold a case under advisement. This may involve a rule requiring that cases or events be completed within a certain period of time or written explanations to the presiding judge and/or Chief Justice for their lack of completion within the designated time period. Frequently, these “exception reports” are a part of monthly statistical reporting on the condition of each judge’s assigned cases. Some states require the presiding judge to submit a report to a higher court or oversight body as to the status of a case after a specified period of time and why a case has not been resolved after a specified period to time.

Samples:

“Each area court administrator, or the presiding judge in those judicial districts not having an area court administrator, shall maintain a current list of all matters under advisement in the superior and district courts in the judicial district... Such lists shall contain the following information: (1) The name of the justice, judge or master having such matter under advisement; (2) The date upon which each matter was referred to the justice or judge for decision or, in the case of a master, for preparation of report; (3) The nature of the decision or matter under advisement; (4) The title of the action; and (5) The court’s file number. (d) Judges of the superior and district courts and masters under continuing appointment shall submit a weekly report to their area court administrator or presiding judge, identifying the matters that are under advisement, and providing the information required by paragraphs (b)(1) – (5) of this rule. (e) Judges or masters having a motion under advisement more than 10 calendar days from the date submitted, or having a decision following trial of a case under advisement more than 30 calendar days from the date submitted, shall submit in writing to the presiding judge of their judicial district an explanation of the circumstances justifying the delay and the date on or before which such motion or case shall be decided (Alaska Rules of Administration, Rule 3, § (b),(d), and (e)).

“Any question submitted to any judge of any court of, or any justice of the peace in, any of the courts of this state, excepting the Supreme Court and the Court of Appeals and the judges thereof, must be decided and the decision rendered within three months after submission, unless prevented by sickness or unavoidable casualty, or the time be extended by stipulation in writing

signed by the counsel for the respective parties and filed with the judge before the expiration of said three months. This section is mandatory, and no officer shall sign or issue any warrant for the payment of the salary or any installment of the salary of any such judge or justice of the peace unless the voucher for such warrant shall contain or be accompanied by a certificate of such judge or justice of the peace that all matters submitted to the judge or justice of the peace for decision three months prior to the filing of said voucher have been decided as required herein; and, in case the time has been extended by stipulation in writing, or a decision has been prevented by sickness or unavoidable casualty, said certificate shall state the facts excusing the delay. The making and filing of a false certificate shall be just cause for the complaint to the legislature and removal of said judge or justice of the peace” (Oregon Revised Statutes, Title 1, Chapter 1, § 1.050).

“Once a month, each judge shall submit a signed statement on a form to be provided by the Administrative Office notifying the presiding judge of any cases or issues held under advisement for more than 60 days and the reasons why the case or issue continues to be held under advisement. Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than 60 days to the Chair of the appropriate Board and indicate the reasons why the case or issue continues to be held under advisement. If a case or issue is held under advisement for an additional 30 days, the Board shall report that fact to the Council” (Utah, Rule 3-104 §§ (3) (L) (ii – iv)).

Commentary:

This rule speaks directly to case and docket management, stipulating the time constraints for case disposition. Some states vest the assigned trial judge with the primary responsibility for timely resolution of under-advisement cases upon penalty of withholding compensation if the provisions are not met, but simultaneously require the presiding judge to oversee and promote accurate reporting.

The objective of establishing these time constraints is to ensure that justice is maintained through timely disposition of cases and resolution of issues, as well as flexibility with those time requirements when it is required in the interests of justice.

If a presiding judge is truly to be vested with leadership and managerial responsibilities, then a rule concerning the monthly reporting of judges detailing the number and reason for cases under advisement exceeding standards should require that the reports be submitted to the presiding judge. It should be the responsibility of the presiding judge to discuss with the reporting judge any exceptions that the presiding judge determines is in need of additional explanation for the delay in rendering a decision.

10. Supervise judicial officers and officers of the court

Description:

This provision provides the presiding judge with the authority to supervise judicial officers employed by the court and to oversee matters involving officers of the court. Authority for appointment and removal may be set by statute or left to the court as the appointing authority. In either case, the appointment, removal, and conditions of employment should be administered in a

manner consistent with the human resource management policies of the court. This duty includes ensuring that those officials maintain ethical and professional standards and that all officers of the court follow policy established by the board of judges.

Samples:

“Failure of any judge, clerk, prosecutor, public defender, or other officer of the court to comply with an order or directive of the [presiding] judge under this section shall constitute neglect of duty for which such officer may be suspended from office as provided by law” (Florida, Title V, Chapter 43 § 43.26(4)).

“A first justice shall also have the following power: (i) . . .to appoint, dismiss, discipline, supervise, assign, evaluate, transfer and define the duties of all non-judicial personnel within his court. . .(ii) . . .to supervise and assign duties to all justices appointed to or assigned to his court” (Massachusetts General Laws, Chapter 211B, §10A).

“It shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a judicial officer’s failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a judge’s substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule” (Washington, General Rule 29 sub § (h)).

Commentary:

Some states authorize the presiding judge to handle personnel matters, while in others this is delegated to the court administrator by rule, statute, or custom. Distinctions are made between judicial officers and court staff, in terms of supervision, performance review, and code of conduct. Some rules may incorporate reference to a code of ethics and specific procedure, where it exists, for professional conduct review. Supervision of pro tem judges is the responsibility of the local court that appoints them and is sometimes problematic due to their temporary status. If the behavior of a judicial officer appears to be a violation of a professional code of conduct, then the court may also be obligated to report the alleged violation to the respective statewide authority in addition to taking internal action.

11. Coordination of Judicial Schedules

Description:

This provision establishes the duty of maintaining an overall court calendar and coordinating the schedules of judges to ensure that a sufficient number of judges will always be on duty to carry out judicial duties for every business day. This includes coordinating with judges to schedule vacations, outreach, continuing education, and liaison activities to ensure judicial coverage.

Sample:

“In determining whether a justice or judge shall take a vacation, and the length thereof, . . . , the presiding judge exercising authority under this rule shall be mindful of the necessity of retention of sufficient judicial manpower in the court or courts under his or her supervision to permit at all times the prompt and effective disposition of the business of such court or courts. Requests for judicial vacations and judicial leave of one week or more must be submitted for approval at least four months in advance” (Alaska Rules of Administration, Rule 28 § e).

“The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties. Each judge shall give reasonable advance notice of his or her absence to the presiding judge” (Utah, Rule 3-104 § (3) (B)).

“[T]he Presiding Judge shall: . . . (3) Coordinate judicial officers’ vacations, attendance at education programs, and similar matters...” (Washington, General Rule 29 sub § (f)).

Commentary:

During the times when judicial officers are engaged in duties away from the courtroom and the courthouse, either another judge will substitute for the absent judge, or the duty will be rescheduled if possible. Many states place the responsibility on the presiding judge to ensure that these times do not overly handicap the court in maintaining its pursuit of effective caseload management and timely disposition of cases.

12. Meetings of Judges

Description:

This provision formulates the use of a meeting or board of judges to make or approve policy and administrative decisions not in conflict with law or state rule. This includes meetings of the judges within a single court, as well as across a circuit or district.

Samples:

“Presiding judges [of superior court] shall meet on a regular basis with the presiding justices of the peace, presiding judges of the municipal courts, and justice court and municipal court administrators to discuss separation of powers, resources, use of technology and legal, administrative and other relevant issues to ensure proper functions and independence of the courts in the county” (Arizona, Administrative Rule V-A § III E).

“The presiding judge shall establish a process for consulting with the judges of the court and may call meetings of the judges as needed. The presiding judge may appoint standing and special committees of judges as needed to assist in the proper performance of the duties and functions of the court” (California, Rule 6.603© (7)).

“The judges of the Superior Court shall meet upon the call of the chief judge, but not less than once each month, to consider matters relating to the business and operations of the court. The

court may by rule require additional meetings” (District of Columbia Official Code, 2001 Ed., §11-909(a)).

“The [presiding] Judge shall ... call a meeting of all judges of the judicial circuit at least once every six months” (Maryland, Maryland Rules, Title 16, Chapter 100, Rule 16-101 § c2).

“An executive committee composed of the chief judge and presiding judges over civil, criminal and family divisions shall meet once a month to address any items of administration or other business and provide a report and minutes of those meetings at the quarterly meeting of the district court” (Rules of Practice for the Eighth Judicial District Court of the State of Nevada, Rule 1.30, § 20).

Commentary:

Some states require a minimum number of meetings or that meetings be held on a specific schedule. Others leave frequency of meetings to local discretion. The court should promulgate local rules that set forth the fundamental governance structures consistent with state rules and statutes. Within that governance structure, a presiding judge and other authorities so designated can use meetings to provide information and solicit comments, create a forum for discussion and resolution of difficult administrative issues, to formalize and implement decisions, and to create policy. A presiding judge may also use these meetings to review management information and to discuss the effectiveness of the business processes used in the organization. Typically, the presiding judge chairs the meetings.

13. Court Organization

Description:

When designated or left to local discretion, this provision enables the presiding judge and/or the board of judges of an individual court to create and disband specialized courts or calendars as business requires.

Sample:

“Subject to the approval of the Chief Justice of the Supreme Court [of Oregon], a circuit court ... may establish specialized subject-matter departments of the court, and may modify or abolish departments so established. Any judge of the court may act in any department so established or modified by rule. The presiding judge for the judicial district may assign any judge of the court to act in any department so established or modified by rule” (Oregon Revised Statutes, Title I, Chapter 1 § 3.225).

Commentary:

This provision is utilized to make explicit the authority to (a) create and dissolve specialized courts (e.g. drug courts) in an effort to improve the processing of specific types of cases, and (b) to organize the administration in a trial court accordingly. However, in some states, the creation of a specialized court or reorganization of the trial courts throughout every jurisdiction may be mandated at the state level or by an act of the legislature.

The board of judges should consider and resolve governance issues concerning the creation or disbanding of a specialized court or docket, by modifying local governance rules. By doing so, specialized courts or dockets remain within the governance of policy set within the overall board of judges and within the judicial administration structures set by the board for management of the court. The governance may be modified to designate a particular judge as the administrative judge responsible for the specialty court. In doing so, this administrative judge is responsible to the presiding judge. The board of judges should also act upon recommendations for organizing court support functions made by the court administrator.

14. Operations (personnel, facilities, procurement, finance)

Description:

These provisions establish the authority of the board of judges to set policy and of the presiding judge to act as the agent of the board, statute, and rule to oversee the judicial and non-judicial management of the court.

Samples:

“Presiding judges shall determine the need for, and approve, the allocation of space and furnishings in the court building; the construction of new court buildings, courtrooms and related physical facilities; and the modification of existing court buildings, courtrooms and related physical facilities. This authority extends, but is not limited to, superior court, clerk of the superior court, adult probation, justice courts and municipal courts” (Arizona, Administrative Rule V-A § III D).

“Under the direction of the presiding judge and consistent with the law and rules of court, the court [administrator] shall perform the following duties, where they are not inconsistent with authorized duties of the clerk of the court: (1) (*Personnel*) Provide general direction to and supervision of the employees of the court, and draft for court approval and administer a personnel plan for court employees that complies with rule 6.650. The court [administrator] has the authority, consistent with personnel plan, to hire, discipline, and terminate non-judicial employees of the court. (2) (*Budget*) Make recommendations to the presiding judge on budget priorities; prepare and implement court budgets, including accounting, payroll, and financial controls; and employ sound budget and fiscal management practices and procedures to ensure that annual expenditures are within the court’s budget. ... (7) (*Facilities*) Plan physical space needs, and purchase and manage equipment and supplies...” (California, Rule 6.610©).

“[T]he Presiding Judge shall: ... (5) Supervise the daily operation of the court including: (a) All personnel assigned to perform court functions; and (b) All personnel employed under the judicial branch of government, including but not limited to working conditions, hiring, discipline, and termination decisions except wages, or benefits directly related to wages; and (c) The court administrator shall report directly to the Presiding Judge” (Washington, General Rule 29 sub § (f)).

Commentary:

As shown by the rule of court from California, several states have chosen to explicitly delegate the authority for operational matters to the court administrator. Often this is done by establishing the administrative purview of the presiding judge as those administrative matters that pertain to the operation of courtrooms. The purview of the court administrator is then defined as the administration of matters that pertain to the operation of the court generally. Other states leave all of these administrative duties in the hands of the presiding judge, intending that s/he perform these duties. A third method places the ultimate responsibility for these administrative duties in the hands of the presiding judge, but either states directly or suggests that the presiding judge should delegate these duties to a court administrator.

15. Courtrooms, Facilities and Security

Description:

This provision defines responsibility for court facilities, (i.e. courthouses, litigation space, court annexes, and ancillary facilities). The tasks within this function include determining space utilization, overseeing general maintenance, planning for new or remodeled facilities, security, emergency preparedness, and disaster recovery.

Samples:

“When it appears necessary because of actual or threatened war, insurrection, pestilence, or other public calamity, or because of actual or threatened destruction of, or danger to the building or the occupants of the building appointed for holding court in any judicial district, the presiding judge of the district may by order direct that the court be held or continued at any other place or facility in the judicial district. The order shall be filed with the clerk of the supreme court and a copy provided to the administrative director. The order shall be published as the presiding judge prescribes” (Alaska Rules of Administration, Rule 22).

“Presiding judges shall determine the need for, and approve, the allocation of space and furnishings in the court building; the construction of new court buildings, courtrooms and related physical facilities; and the modification of existing court buildings, courtrooms and related physical facilities. This authority extends, but is not limited to, superior court, clerk of the superior court, adult probation, justice courts and municipal courts” (Arizona, Administrative Rule V-A § IIID).

“Administrative supervision of the superior court shall include authority to:...(9) Establish court security policies and procedures to provide a safe work environment for judicial employees, litigants and users of the court pursuant to guidelines established by the Supreme Court. Court security may include procedures, technology, security personnel or architectural features needed to provide a safe work environment. The presiding judge may also prohibit or regulate the possession of weapons or potential weapons in an area assigned to or controlled by the court” (Arizona, Administrative Rule V-A § IIIB (9)).

“Under the direction of the presiding judge and consistent with the law and rules of court, the court executive officer shall perform the following duties, where they are not inconsistent with

authorized duties of the clerk of the court: ... Plan physical space needs, and purchase and manage equipment and supplies” (California, Rule 6.610© (7)).

“The hours of court operation shall be set by the chief magistrate of each court and shall be recorded with the clerk of the magistrate court. Such information shall include the following: (1) normal hours and location of court, (2) Emergency after-hours availability of judges and the names of such judges, (3) holidays during which the court will be closed and a plan for the availability of judges on such days, (4) days on which the court holds civil and criminal hearings (if not handled on the same day), and the times and locations of such hearings” (Georgia, Uniform Rules of the Magistrate Court, Rule 3).

“The presiding judge shall coordinate the assignment of courtrooms and facilities in accordance with supplemental court rules” (Utah, Rule 3-104 § (3) (H)).

Commentary:

Considerable variation exists in the ways in which states define the responsibility for courthouse and courtroom facilities. Some states place all responsibility for this duty in the hands of the presiding judge, while others assign the responsibilities to the court administrator.

There are two items of particular concern regarding court facilities. First, the relationship of the court to its “host government”, whether a state, county, or city. Here, often the court is regarded as an “anchor tenant” in a courthouse operated by the executive branch. Although the court is frequently given great deference in managing and modifying its space in the courthouse, or at satellite facilities owned and operated by the “host government,” it must act diplomatically, conscientiously, and decisively in promoting changes and improvements. Secondly, courts have unique security and disaster planning needs that are not commonplace for other government agencies officing in the courthouse. Consequently, court leaders have an obligation to responsibly advocate and implement adequate security (e.g. public screening stations, witness waiting areas, panic buttons, records privacy, etc.) and emergency management plans.

16. Orientation and Training

B) Presiding Judges

Description:

This rule delineates the specific education requirements for a presiding judge.

Sample (hypothetical):

Each new presiding judge must complete the presiding judge’s orientation course prior to assuming the role. Within one year, but preferably prior to assuming the role, the presiding judge shall complete the leadership training course and the management training course for presiding judges.

Commentary:

A rule addressing the specific educational requirements for presiding judges should specify both the content of the education as well as a time frame within which this education should be

completed. These requirements may comprise an orientation specific to presiding judges, leadership development training, and management classes specific to the state and/or jurisdiction. Given the presiding judge's supervisory role with respect to other judicial officers and court personnel, the orientation training should include labor and employment issues, laws, and regulations.

The hypothetical rule of court provision above is based on a key assumption: it assumes that the orientation will be completed prior to the incoming presiding judge taking on the duties and authorities of the presiding judge position. In order to maximize the effectiveness of an orientation course, it is important for this training to be completed either immediately before the presiding judge assumes this role or immediately upon taking office. This will require coordinated scheduling of training to correspond with the court's terms of office for the presiding judge.

The hypothetical example also assumes that the state judicial branch is the provider of training for these purposes. Where that is not the case, the rule should specify training providers. For examples of other providers, see the list below:

- Judicial Council; Administrative Office of the Courts
- Judges Association
- Superior Courts
- National Judicial College
- National Center for State Courts; Institute for Court Management
- National Council for Juvenile and Family Court Judges
- National Association of Women Judges
- American Bar Association; Judicial Division
- National Association for Court Management
- American Judges Association
- American Academy of Judicial Education
- Institute of Judicial Administration
- National Institute of Justice
- Law Schools accredited by the American Bar Association
- State Bar Association

B) Judges

Description:

This provision establishes a minimum requirement for the education and training of judges.

Samples:

“Every state court judge (including senior judges who serve more than 30 days a year and any pro hac vice judge serving for more than 30 days a year, or any person serving as a state court judge for more than 30 days a year) shall attend approved MCJE courses and/or MCLE courses approved by ICJE for credit for judges, or other educational programs or activities approved by ICJE for credit for judges, totaling a minimum of 24 hours every two (2) years. At least two

hours of the mandated 24 hours shall be approved ICJE “ethics studies.” It is recommended that judges acquire the judicial study at the rate of 12 hours per year, but sanctions do not apply if this annual recommendation is not met. It is further recommended that at least one of the two hours required in “ethics” be in the area of judicial ethics, but this is not mandated. . . Each new judge must attend the pertinent Institute of Continuing Judicial Education (ICJE) in-state program of instruction for new judges or its locally administered individual new judge orientation course. Either activity must be attended as soon as possible after the judge’s election or appointment, but, in any event, within one year after assuming office. Each new judge is also encouraged to attend a nationally-based basic course for general jurisdiction trial judges, as set forth in Paragraph D below. . .Judges who fail to earn a minimum of 24 hours over a two-year period may receive a private administrative admonition issued from the Education Committee of the State Court Judges Council detailing the consequences of failure to fulfill the training requirements. . .” (Georgia, Uniform State Court Rules, Rule 43).

“Each judge shall take no more than ten (10) working days for in-state judicial education or teaching. Education or teaching in excess of ten (10) working days without prior approval from the Chief Judge may be deducted from the judge’s vacation leave. A judge may carry over any unused education time from the previous year. Judges may attend additional education programs out-of-state or may be involved in out-of-state teaching, but must receive approval from the Chief Judge. Unapproved out-of-state education or teaching may be deducted from the judge’s vacation leave” (Milwaukee County Circuit Court Rules, First Judicial District, 250).

“All judges and court commissioners shall participate in a designated orientation program during their first year. All judges, court commissioners, active senior judges, and active senior justice court judges shall complete 30 hours of pre-approved education annually, to be implemented on a schedule coordinated by the Committee. Judges of courts of record and court commissioners may attend a combination of approved local, state, or national programs. Senior judges may attend approved local or state programs and the annual Utah Judicial Conference. Education programs for judges and court commissioners shall include: a mandatory new judge orientation program; a variety of programs addressing substantive and procedural law topics, aimed at skill and knowledge acquisition; and programs geared to professional and personal development, to meet the continuing needs of judges and court commissioners over the long term” (Utah, Judicial Council Rules of Judicial Administration, Rule 3-403 § 3).

Commentary:

This provision is important for the presiding judge because it adds an additional consideration in docket management and court calendaring. The presiding judge will need to ensure that judicial officers are completing the education requirements set out by the state, but that their absence during education or training courses does not have a negative effect on effective caseload management and the timely disposition of cases.

17. Budget

Description:

This provision establishes localized court budget authority and places that authority with the presiding judge. Frequently, this rule expressly provides the presiding judge with the authority

to delegate this responsibility to the court administrator. In some cases, the rule places this responsibility directly with a court administrator.

Samples:

“In cities without a court administrator or where the specific duty is not delegated to one: (1) Presiding judges of the municipal court shall prepare the annual budget request for the court...” (Arizona, Administrative Rule VII – A § 2 IIIIE).

“The first justice shall periodically prepare and submit to the chief justice of his department an estimate, in detail, for the ordinary maintenance of the division or place for holding court, and all revenues therefrom. . .” (Massachusetts General Laws, Ch. 211B §10A).

“During each biennium, at the appropriate time designated by the State Court Administrator, the presiding judge shall review and forward to the State Court Administrator the budget request for all state funded court services within the judicial district. The presiding judge shall supervise the administration of the budget approved by the Legislative Assembly within the judicial district subject to limitations provided by the Administrative Council, the State Court Administrator, and the Chief Justice. The presiding judge shall provide administrative staff assistance, when appropriate, in preparing budgets for other court services in the judicial district” (North Dakota, Supreme Court Administrative Rule 2 § 11).

Commentary:

Budgeting often tends to be a complex and difficult task. It usually requires familiarity with past budgets as well as with formulas and procedures used by the state, county, or city to determine certain aspects of the budget and properly file the budget request. This suggests that the budget is often best handled by a professional with substantial knowledge and experience, often the court administrator. Sharing this responsibility with the court administrator is beneficial to the presiding judge due to the short term of the presiding judge in many jurisdictions. Communication of the budget and responsibility for good fiscal administration is a function of the presiding judge in many jurisdictions. The process requires that the presiding judge and court administrator act as a unified team in communicating, presenting, justifying, and administering court budgets.

18. Appointment of Trial Court Administrator

Description:

This provision establishes the position of a court administrator and defines which duties are expressly delegated to the court administrator. Methods of selection include appointment by the local presiding judge, appointment by the state court administrator, independent election, ratification of presiding judge appointment by the board of judges of the court, and appointment by an official of a higher court.

Samples:

“Presiding municipal court judges shall perform administrative duties delegated to them by the presiding judge of the county. Such duties as are appropriate, may be delegated to a municipal court administrator. Presiding municipal court judges may appoint a court administrator according to local charter or ordinance provisions” (Arizona, Administrative Rule VII-A § 2 sub §§ IIIA-B).

“Each circuit court administrator shall be selected or terminated by the [presiding] judge subject to concurrence by a majority vote of the circuit and county judges of the respective circuits” (Florida, Judicial Administration Rules, Rule 2.050(d)).

“...The Trial Court Administrator supports the judiciary as a whole. Therefore, it is recommended that all circuit judges participate in the selection process. The final decision should include the approval by a majority of the circuit judges” (Illinois Chief Judges’ Manual, 3rd Edition, p. 28).

“The presiding judge is responsible for the following judicial duties. . .direct the family division administrator in the management of the division and the performance of the administrator’s duties including, but not limited to, the collection and compilation of statistics on the caseload and other procedures. . .” (Rules of Practice for the Eighth Judicial District Court of the State of Nevada, Rule 1.31, § (b)(21)).

“The presiding judge shall review the proposed appointment of the court executive made by the state level administrator for the respective court level and must concur in the appointment before it can be effected. The presiding judge shall obtain the approval of a majority of the judges in that jurisdiction prior to concurring in the appointment of a court executive” (Utah, Rule 3-104 § (2) (G) (i)).

Commentary:

Court administrators are appointed (or elected) in several different ways, and the structures of accountability vary widely as well. There may be an organizational advantage to those systems that enable the board of judges to engage or remove the court administrator through a majority vote in those jurisdictions where employment is solely a local decision. Such an employment relationship aligns the administrator with the policy setting authority for the court and creates the same relationship to the board as by the presiding judge, namely as an agent of the board. The ability of an administrator to build a working relationship with successive presiding judges is critical to the success of the court executive team. However, the administrator must necessarily operate as an agent of the board of judges and as a professional agent of the judge presiding over the court.

The administrator serves multiple positions of authority and is not the exclusive agent of one or the other. This point of governance has been at the root of much discussion over time in the field. The position of court administrator is provided for by statute, by state rule, by local rule, and by past practice. Their responsibilities may be similarly defined. Some states define the specific duties for which the court administrator is directly responsible, and for which the presiding judge

will have oversight authority. Other states simply formulate the position as an extension of the presiding judge's administrative authority, where the court administrator has only those responsibilities which the presiding judge decides to delegate to the administrator. The former formulation aids in reducing confusion about the division of labor in the court leadership team, but may create a lack of interaction between the presiding judge and the court administrator. In some courts, this has amounted to complete isolation of the two positions from each other. The latter formulation may contribute to some confusion, but it does mandate that the presiding judge and the court administrator interact in some form of administrative unit. Many states have adopted the compromise position where the court administrator holds statutory or rule-based responsibilities, but remains beholden to the presiding judge, who holds oversight authority and ultimate responsibility for court administration.

What matters most are not the prescribed duties for each position, but the evolution of the working relationship between the presiding judge and the court administrator as the court executive team. Key components of that relationship are how the two work together to oversee court management and whether the two can serve together to lead the organization.

19. Court Committees

Description:

In certain states, the presiding judge is empowered to establish committees, including any combination of judges, court administrators, court staff, agency representatives, members of the bar and members of the public to address administrative issues concerning the court, study the issues, and propose solutions. This provision defines that authority, including how the presiding judge may carry out the formation of committees, the circumstances under which the presiding judge may do so, as well as the scope of the committees authorities. Local rules of governance should define a process by which the work of a committee comes back to the board of judges for review and action, if necessary.

Samples:

“The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc” (Utah, Rule 3-104 § (3)©).

“The judges of a court may elect an executive committee consisting of other judicial officers in the court to advise the Presiding Judge. By local rule, the judges may provide that any or all of the responsibilities of the Presiding Judge be shared with the Executive Committee and may establish additional functions and responsibilities of the Executive Committee” (Washington, General Rule 29 sub § (g)).

Commentary:

Some state and local courts have clearly defined committee structures, while others allow committees to be established on an *ad hoc* basis. However established, these committees provide the presiding judge with additional means for administering the court and recognize ways that others who are stakeholders in the court system, including judges, court staff, justice agencies,

and the community-at-large can contribute to problem-solving and improvement in court operations and programs. Presiding judges should task the court administrator with providing support to the chair of each committee to address the committee's charges. The judicial chair of a committee should report to the presiding judge.

20. Local Supplemental Rules

Description:

This provision allows for a specific subset of policies and procedures. It establishes the procedure by which a court may define specific rules, within the framework of statewide rules of court, when statewide rules allow for the use of a local rule.

Samples:

“Administrative supervision of the superior court shall include authority to: ... (5) Promulgate local rules as a majority of judges of the county may approve or as the Supreme Court shall direct” (Arizona, Administrative Rule V-A, § IIIB (5)).

“The presiding judge shall supervise the implementation of all local administrative practice and procedure regulations by all judges, clerks of court and other officers or employees of the courts in the judicial district” (North Dakota, Supreme Court Administrative Rule 2 § 12).

“Nothing in these rules prevents the adoption of any local rule of practice that promotes the use of any device or procedure to facilitate the expeditious disposition of cases. Local rules of practice shall not be inconsistent with rules promulgated by the Supreme Court. A local rule of practice shall be adopted only after the court or division provides appropriate notice and an opportunity to comment on the proposed rule. If the court or division determines that there is an immediate need for the rule, the court or division may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment. Upon adoption, the court or division shall file a local rule of practice with its clerk and the clerk of the Supreme Court. . .” (Rules of Superintendence for the Courts of Ohio, Rule 5 § (A)(1-3)).

“In addition to local rules of practice adopted pursuant to division (A)(1) of this rule and any other Rule of Superintendence, each court or division, as applicable, shall adopt the following by local rule: A case management plan for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases. In addition to any other provisions necessary to satisfy the purposes of division (B)(1) of this rule, the plan shall include provisions for an early case management conference, referral to appropriate and available alternative dispute resolution programs, establishment of a binding case management schedule, and a pretrial conference in cases where the trial judge determines a conference is necessary and appropriate. A municipal or county court may establish separate provisions or exceptions from the plan for small claims, traffic, and other types of cases that the court determines would not benefit from the case management plan” (Rules of Superintendence for the Courts of Ohio, Rule 5 § (B)(1)).

“Prior to submission of a local supplemental rule to the Board, the presiding judge shall submit the rule to a vote of the judges of that jurisdiction. Upon a majority vote, the rule shall be submitted to the Board and the Council for review, adoption and ratification as provided in this Code. The presiding judge shall ensure that copies of local supplemental rules are available and disseminated to interested persons” (Utah, Rule 3-104 § (3) (F)).

Commentary:

The growth of detailed statewide rules of court has brought about a shift in the use of local supplemental rules as states attempt to standardize court procedures. Therefore, states now tend to define in the statewide rules when a local rule may be used. Specifying the relationship between statewide rules and local rules is important for ensuring consistency.

Statewide administrative rules must necessarily be broad because the appropriate details change for all or most courts throughout a state. Local rules may also be administrative in nature, specifying specific local policies and addressing issues such as court security procedures.

21. Strategic Planning

Description:

Certain states require courts to establish long-range plans for their operation or for judicial improvements. In some of those states, an overarching body creates this plan and requires courts to adhere to it. In other such states, the presiding judge is empowered to formulate the plan for his/her local jurisdiction.

Samples:

“The circuit judges of each judicial circuit by majority vote shall adopt a plan for circuit court administration. The [presiding] judge of each judicial circuit shall submit the administrative plan to the Supreme Court [of Arkansas]. The purpose of the administrative plan is to facilitate the best use of the available judicial and support resources within each circuit so that cases will be resolved in an efficient and prompt manner” (Arkansas, Administrative Order 14 § 3).

“The presiding judge shall: Prepare, with the assistance of appropriate court committees and appropriate input from the community, a long-range strategic plan that is consistent with the plan and policies of the Judicial Council, for adoption in accordance with procedures established by local rule or policies” (California, Rule 6.603©(9)(A)).

“The presiding judge, in consultation with the judges of the jurisdiction, shall coordinate with the court executive on matters concerning ... the general administration of the court including ... long-range planning, administrative projects, intergovernmental relations and other administrative responsibilities as determined by the presiding judge and the state level administrator” (Utah, Rule 3-104 § (3)(G)(v)).

Commentary:

The formulation of statewide rules of court for judicial administration has often come as a judicial reform aimed at reaching larger goals, such as improved caseflow management and

general courthouse administration or greater judicial independence. In the Arkansas and Utah samples above, plans are made at the court level but registered, coordinated, or reviewed at a statewide level.

Once a strategic plan is in place, the presiding judge's role should be to implement its objectives. This assures continuity in the overall administration of the court, regardless of how the strategic plan is formulated.

22. Liaison to Outside Agencies

Description:

This provision grants authority to the presiding judge to speak in the name of the court to all bodies outside the court, including other governmental agencies both inside and outside the judicial branch. Frequently, this duty is assigned to the presiding judge, but can include an expressed option for its delegation to other officials. This provision could include arrangements for court outreach, particularly when that outreach is directed towards governmental or educational institutions.

Samples:

“The presiding judge shall: Provide for liaison between the court and the Judicial Council, the Administrative Office of the Courts, and other governmental and civic agencies” (California, Rule 6.603© (8) (A)).

“The presiding judge or court [administrator] shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court at ceremonial functions” (Utah, Rule 3-104 § (3) (D) (i)).

“[T]he Presiding Judge shall: ... Act as the official spokesperson for the court in all matters with the executive or legislative branches of state and local government and the community unless the Presiding Judge shall designate another judge to serve in the capacity” (Washington, General Rule 29 sub § (f)(10)).

Commentary:

The courts must maintain good communication and careful ties with other government agencies, private entities, and the public. Thus, it is beneficial that the Rule of Court establishes formal responsibility for this duty. This is most often done by assigning this duty to either the presiding judge, the court administrator or an administrative judge.

23. Liaison to Media and Stakeholders

Description:

This provision designates that the presiding judge has authority to see that this function is performed well. The presiding judge may determine which official, usually the presiding judge

or delegate, may speak for the court when the court is dealing with the media, as opposed to when the court is dealing other agencies. This person may be different from the person delegated to speak and work with governmental and private entities as stated in the preceding rule. This provision could also include arrangements for court outreach.

Samples:

“The presiding judge shall: (B) Meet with or designate a judge or judges to meet with any committee or the bench, bar, news media, or community to review problems and to promote understanding of the administration of justice, when appropriate; and (C) Support and encourage the judges to actively engage in community outreach to increase public understanding of and involvement with the justice system and to obtain appropriate community input regarding the administration of justice, consistent with the California Code of Judicial Ethics and section 39 of the Standards of Judicial Administration” (California, Rule 6.603(c)(8)(B-C)).

“Generally, the presiding judge or court [administrator] shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit” (Utah, Rule 3-104 § (3)(D)(ii)).

Commentary:

Along with the need to interact with other government agencies, courts find that they must interact with the general media at certain times and in certain situations. This can include anything from simple press releases or responses to greater pressures of high-profile cases or media-targeted problems within the court. This provides the same need for an official to speak for the court as did the liaison duties with government agencies, and so the same rationale for placing the responsibility with the presiding judge exists. The skills necessary for interacting with the media may lead the presiding judge to delegate this responsibility to another court official, such as a court administrator or public information officer.

Several states have developed a different method of performing court liaison duties. For example, New York has established an Office of Public Affairs and Maryland has a Court Information Office. These press offices can free individual presiding judges of the sole responsibility for performing media liaison duties.

24. Statistical and Operational Reporting

Description:

This provision establishes the duty of assembling, maintaining, and reporting statistical records of court activities.

Samples:

“Presiding judges shall obtain compliance with statistical reporting requirements from superior court, adult probation, juvenile court, justice courts and magistrate courts” (Arizona, Administrative Rule V-A § III F).

“The [presiding] judge shall have responsibility for the computation, development and coordination of case statistics and other management data respecting the judicial circuit” (Arkansas, Administrative Order 14 § 2c (3)).

“Under the direction of the presiding judge and consistent with the law and rules of court, the court executive officer shall perform the following duties, where they are not inconsistent with the authorized duties of the clerk of the court: ... Create and manage uniform record-keeping systems, collecting data on pending and completed judicial business and the internal operation of the court, as required by the court and the Judicial Council” (California, Rule 6.610©(8)).

“The clerk of the circuit court shall report the activity of all cases before the courts within the clerk’s jurisdiction to the supreme court [of Florida] in the manner and on the forms established by the office of the state court administrator and approved by order of the court. In those jurisdictions where separate offices of the clerk of the circuit court and clerk of the county court have been established by law, the clerk of the circuit court shall report the activity of all cases before the circuit court, and the clerk of the county court shall report the activity of all cases before the county court” (Florida, Rules of Judicial Administration, Rule 2.080(a)).

“In order to compile accurate data on the operation of the magistrate courts, each chief magistrate shall insure that the accurate completion and timely submission of the Quarterly Caseload Reports sent to them by the Administrative Office of the Courts” (Georgia, Uniform Rules of the Magistrate Court, Rule 12).

“Consistent with council policies, the court executive, in consultation with the presiding judge, shall: coordinate the compilation of management and statistical information necessary for the administration of the court” (Utah, Rule 3-104 § (3) (I) (i)).

“[T]he Presiding Judge shall: ... Develop and coordinate statistical and management information” (Washington, General Rule 29 sub § (f) (4)).

Commentary:

In most states, statistical reporting is a specific aspect of record keeping. Many states specify the duty with respect to compliance with reporting to the office of the state court administrator or judicial council. This duty is also frequently delegated to the court administrator. In addition to reports required by the state court administrator’s office, it is the responsibility of the presiding judge to work with the board of judges and the court administrator to define operational reports needed by judges and staff to monitor that each and every case is progressing through the litigation process in accordance with standards governing timeliness.

25. Appellate Records

Description:

This provision is a part of the overall record-keeping duties. It involves ensuring that appropriate records are maintained and provided to the appellate court in a timely manner when required.

Sample:

“The presiding judge is responsible for ensuring the timely preparation of records on appeal. (A) The presiding judge ordinarily should delegate the following duties to the executive officer: (i) Maintaining records of outstanding transcripts to be completed by each reporter; (ii) Reassigning court reporters as necessary to facilitate prompt completion of transcripts; and (iii) Reviewing reporters’ requests for extensions of time to complete transcripts in appeals of criminal cases. (B) After reasonable notice and hearing, the presiding judge shall declare any reporter of the court who is delinquent in completing a transcript on appeal not competent to act as a reporter in court...” (California, Rule 6.603(c) (10)).

Commentary:

By expressly delegating the responsibility to the presiding judge, this provision will help to ensure that this duty is properly fulfilled. The lack of express delegation could lead to confusion over who is accountable and responsible and introduce delay to the appeals process. The authority of a presiding judge to intervene may vary significantly between those persons who are employed by the court and those who serve as externally appointed officers of the court. In particular, the authority of the presiding judge over an elected clerk of court who may have responsibility for all or only parts of the “record on appeal” may be limited, and/or sensitive.

26. Establish and Sustain Automation Systems

Description:

This provision establishes the responsibility of the presiding judge to oversee the use of information systems in courthouses and courtrooms.

Samples:

“Presiding judges shall coordinate and implement compatible information systems and technology at the local level for all jurisdictions within the county, improve information sharing, and encourage projects which utilize technology to increase accessibility and improve efficiency and court management within their jurisdictions” (Arizona, Administrative Rule V-A § IIIK).

“The Administrative Office of the Courts shall as soon as practical develop and make available to each judicial circuit a computerized program to assure (i) random assignment of cases where appropriate and (ii) a substantially equal apportionment of cases among judges” (Arkansas, Administrative Order 14 § 3(a)(3)).

“Under the direction of the presiding judge and consistent with the laws and the rules of court, the court executive officer shall perform the following duties: . . . Analyze, evaluate, and implement technological and automated systems to assist the court” (California, Rule 6.610© (5)).

Commentary:

In today’s environment, state Rules of Court often do not define specific uses for technology and may not be appropriate except in the case of technologies related to litigation, (e.g. e-filing).

Policies and procedures promulgated by State Courts of Last Resort frequently prescribe baseline directions, standards, and goals for court automation. The sample rule from Arkansas is an exception, where technology is to be applied to the operations of the court in a specific way, though not to the exclusion of other potential uses. In a similar vein, Florida has begun a project of computerizing the state's system for filing court records (see Florida Rules of Judicial Administration, Rule 2.090: Electronic Filing of Matters in All Proceedings within the State Courts System).

While most technology implementation remains in the hands of individual courts, its application is often subservient to general guidelines established by a statewide group (e.g. Administrative Offices of the Court, Technology Commissions) reporting to the Supreme Court. Consequently, the degree of attention paid to acquiring and implementing information technology may vary as presiding judges come and go. This suggests that the implementation of technology and system maintenance might best be delegated to the court administrator.

Sample Rules Reference List
(hyperlinks last accessed 6/20/2006)

Alaska Rules of Administration

<http://www.state.ak.us/courts/adm.htm#24>

Arizona Code of Judicial Administration

<http://www.supreme.state.az.us/orders/admcode/>

California Judicial Administration Rules

<http://www.courtinfo.ca.gov/rules/titlesix/titlesix.pdf>

District of Columbia Official Code

<http://government.westlaw.com/linkedslice/default.asp?rs=gvt1.0&vr=2.0&sp=dcc-1000>

or visit: "<http://www.dccouncil.washington.dc.us/>" and click on "DC Official Code"

Florida 2005 Statutes

<http://www.flsenate.gov/Statutes/>, Title V: Judicial Branch, Chap 43: Courts: General Provisions; 43.26

Georgia, Uniform State Court Rules

<http://www.georgiacourts.org/rules.html>

Maryland Rules,

<http://198.187.128.12/maryland/lpext.dll?f=templates&fn=fs-main.htm&2.0>

See Maryland Rules, MARYLAND RULES, Title 16: Courts, Judges, and Attorneys

North Carolina General Statutes

<http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl?Chapter=0007A>

North Dakota Supreme Court Rules

<http://www.ndcourts.com/court/rules/administrative/ar02.htm>

Ohio Rules of Court, Rules of Superintendence for the Courts of Ohio

<http://www.sconet.state.oh.us/Rules/superintendence/>

Oregon Revised Statutes, Chapter 1

<http://www.leg.state.or.us/ors/001.html>, for §§1.003, 1.171

<http://www.leg.state.or.us/ors/003.html>, see §3.225

Utah, Judicial Council Rules of Judicial Administration

<http://www.utcourts.gov/resources/rules/ucja/index.htm>, see §3.104 and §3.403

Washington Court Rules, General Rule 29

http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr29

Wisconsin, Uniform Rules for Trial Court Administration

<http://www.wicourts.gov/opinions/docs/circuitrules.pdf>

Wisconsin, Milwaukee County Circuit Court Rules (First Judicial District)

http://www.wisbar.org/AM/Template.cfm?Section=Milwaukee_County1