



SALLY HOLEWA  
STATE COURT ADMINISTRATOR

**State of North Dakota**  
OFFICE OF STATE COURT ADMINISTRATOR

20160245

SUPREME COURT  
Judicial Wing, 1st Floor  
600 E Boulevard Ave Dept 180  
Bismarck, ND 58505-0530  
701: (701) 328-4216  
Fax: (701) 328-2092

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT  
MAY 24, 2016  
STATE OF NORTH DAKOTA

TO: Chief Justice Gerald W. VandeWalle  
FROM: Sally Holewa *SH*  
RE: Draft Amendments to AR 6.1 and AR 46  
DATE: May 24, 2016

Enclosed are draft amendments to AR 6.1 – Administrative Units and AR 46 – Duties and Appointment of the Clerk of District Court. The primary reason for the proposed amendments is to clarify oversight of work performed by the county-employed clerks of court. With the turnover in judges, there has been quite a bit of confusion in the districts about whether AR 6.1 and AR 46 pertain to county-employed clerks (including those who are elected clerks as well as those who are appointed by the county). Other proposed amendments are to update reporting requirements to the Administrative Council, to update obsolete references, and to conform to the current citation manual.

Proposed amendments to AR 6.1 include:

1. Under Section 3(C) add a new subsection 4 to clarify that the trial court administrator is responsible for monitoring the services provided by county-employed clerks of court, and renumber accordingly.
2. Under Section 1 update format of legal citation.
3. Under Section 3(C)(3)and(6) change “secretaries to judges” to “electronic court recorders” to reflect current job title.
4. Under Section 3(C)(9) change the requirement of regular reports to the Administrative Council to a requirement to report as requested by the Council, and deletes reporting requirements on indigent defense services and facilities.

Proposed amendments to AR 46 include:

1. Under Section 2 add a new subsection L. to direct the clerk to obtain assistance from the state court administrator’s office and the Supreme Court clerk with issues about clerk of court duties and delete Section 3(E) in its entirety.
2. Under Section 1 update format of legal citation.
3. Under Section 2(D) delete the reference to UCIS and substitute a more generic reference to other manuals and guides adopted by the state court administrator’s office.
4. Under Section 2(F) and (G) update language to reflect current practice of using electronic data storage within the case management system rather than keeping physical indexes or registers.
5. Under Section 3(C) amend requirement that the assistant state court administrator provide an annual report on the assessment of clerk’s offices to the Administrative Council to requiring a report as requested by the Council.

Enclosures

1  
2

3 **Administrative Rule 6.1 - ADMINISTRATIVE UNITS**

4 **Section 1.** Authority and Purpose.

5 Under ~~Article VI, Section 3, of the North Dakota Constitution~~ N.D. Const. art. VI, §3, the  
6 Supreme Court adopts this rule providing for administrative units and defining the role of trial  
7 court administrators.

8 **Section 2.** Administrative Units — Establishment.

9 A. To provide consistent, effective, and efficient administrative support services to the  
10 district courts, the state is divided into four administrative units. The administrative units  
11 consist of existing judicial districts.

12 B. The administrative units are:

13 1. Unit 1 consisting of the Northeast and Northeast Central judicial districts.

14 2. Unit 2 consisting of the Southeast and East Central judicial districts.

15 3. Unit 3 consisting of the South Central and Southwest judicial districts.

16 4. Unit 4 consisting of the Northwest and North Central judicial districts.

17 **Section 3.** Trial Court Administrator — Position, Duties, and Responsibilities.

18 Trial court administrators assist the State Court Administrator and the judges in the  
19 administrative unit in ensuring uniform and consistent implementation of Judicial Branch  
20 policies and procedures.

21 A. Trial court administrators are hired by the presiding judges and the State Court  
22 Administrator. Qualifications of the trial court administrator are established by Supreme  
23 Court policy.

24 B. Trial court administrators are supervised by the State Court Administrator.

25 C. The duties and responsibilities of each trial court administrator include:

26 1. Implementing and ensuring compliance with the policies and procedures adopted by the  
27 Judicial Branch and ensuring compliance with all applicable rules and policies adopted by the  
28 Supreme Court.

29 2. Implementing and ensuring compliance with policies and procedures adopted by the judges in  
30 the administrative unit which are not inconsistent with Judicial Branch policies and procedures.

1 3. With the exception of judicial referees, law clerks, court reporters, and ~~secretaries to judges~~  
2 electronic court recorders, hiring and supervising all trial court personnel in the administrative  
3 unit, including state-employed clerks of court, juvenile court personnel, and calendar control  
4 clerks.

5 4. Monitoring the delivery of clerk services provided by county personnel under N. D. C.C. ch.  
6 27-05.2.

7 ~~4~~5. Monitoring compliance with personnel-related policies and providing interpretation of  
8 policies to trial court personnel.

9 ~~5~~6. If supervisory authority is delegated to the trial court administrator by the presiding judge,  
10 supervising judicial referees, law clerks, court reporters, and ~~secretaries to judges~~ electronic  
11 court recorders hired by the presiding judge of the judicial district.

12 ~~6~~7. Developing work plans to ensure efficient use of administrative personnel.

13 ~~7~~8. Assigning subordinate personnel to other locations within the administrative unit in  
14 accordance with Judicial Branch staffing.

15 ~~8~~9. Providing ~~regular~~ reports to the Council as requested on the state of the district courts  
16 within the administrative unit, including fiscal management, case management, jury  
17 management, juvenile court services, ~~indigent defense services, facilities,~~ and personnel and  
18 records management.

19 ~~9~~10. In consultation with the presiding judges of the administrative unit, preparing a budget for  
20 the unit each biennium.

21 ~~10~~11. Performing duties or responsibilities as may be directed by the State Court Administrator.

22 ~~11~~12. Performing such other non-conflicting duties or responsibilities as may be directed by the  
23 presiding judges of the judicial districts within the administrative unit.

24 D. The trial court administrator may delegate supervisory or other authority to assistants  
25 or local administrative personnel as considered appropriate or necessary.

26 E. The trial court administrator shall oversee the provision of administrative support  
27 services throughout the administrative unit for which the administrator is responsible.

28 **Section 4. Effective Date.**

29 The effective date of this rule is ~~January 1, 2014~~ January 1, 2014.



- 1 I. Implement financial controls in accordance with judicial branch policies and procedures.
- 2 J. Receive, safeguard, and disburse, all money required to be paid to the clerk of district court  
3 and maintain required records.
- 4 K. Keep other records and perform other duties prescribed by statute, rule, policy, or procedure.
- 5 L. Seek the assistance of the Office of the State Court Administrator or the Clerk of the Supreme  
6 Court concerning the application of statutes, rules, policies, and procedures governing clerk of  
7 district court services.

8 **Section 3. Clerk of District Court - Deputies and Other Clerk Personnel**

- 9 A. Upon the retirement or resignation of a clerk of district court who has become an employee of  
10 the unified judicial system in accordance with N.D.C.C. § 27-05.2-02, the clerk of district court  
11 for each county in which there is a state-employed clerk shall be hired and supervised by the trial  
12 court administrator for the administrative unit in which the county is located. Sufficient deputies  
13 and other clerk of court personnel shall be employed to assist the clerk of district court in  
14 providing effective clerk services. After consultation with the state court administrator and the  
15 clerk of district court who has become a state employee in accordance with N.D.C.C. § 27-05.2-  
16 02, the trial court administrator shall designate clerk staff who shall become state employees in  
17 accordance with N.D.C.C. § 27-05.2-02(3). The clerk of district court, deputies, and other clerk  
18 of court personnel are classified employees of the unified judicial system.
- 19 B. The clerk of district court, deputies, and other clerk of court personnel who are employees of  
20 the unified judicial system must have the qualifications prescribed by supreme court policy.
- 21 C. The assistant state court administrator for trial courts, in coordination with the trial court  
22 administrators and clerks of court, is responsible for general oversight of clerk of court  
23 operations to ensure compliance with statutes, rules, policies, and procedures governing the  
24 delivery of clerk of district court services. The assistant state court administrator shall  
25 periodically, but at least annually, assess clerk of court operations in each administrative unit  
26 and, as requested, provide a report to the Administrative Council.
- 27 D. Each state employed clerk of district court shall supervise all personnel within the clerk's  
28 office.
- 29 ~~E. The Office of State Court Administrator and the Clerk of the Supreme Court shall provide~~  
30 ~~advice and information, as requested or required, to clerks of district court concerning the~~  
31 ~~application of statutes, rules, policies, and procedures governing clerk of district court services.~~

32 **Section 4. Analysis of Duties - Review**

- 33 For purposes of the options available to counties under N.D.C.C. § 27-05.2-02, the number of  
34 employees determined necessary to provide clerk of district court services is based on an analysis  
35 of clerk of district court duties as identified in Section 2. The analysis must be thoroughly

1 reviewed periodically, but at least once each 24 months, to ensure the analysis accurately reflects  
2 the duties of the clerk of district court.

3 **Section 5. Effective Date**

4 This rule, as amended, is effective ~~May 4, 2005~~ \_\_\_\_\_.

5 Dated at Bismarck, North Dakota, May 4, 2005.

6 Gerald W. VandeWalle, Chief Justice

7 Dale V. Sandstrom, Justice

8 Mary Muehlen Maring, Justice

9 Carol Ronning Kapsner, Justice

10 ATTEST:

11 Penny Miller, Clerk

12 SOURCE: Adopted March 12, 2001, with an effective date of April 1, 2001. Amendments  
13 adopted effective May 4, 2005;\_\_\_\_\_.