



CHAMBERS OF
Mary Muehlen Maring
JUSTICE

The Honorable Chief Justice Gerald VandeWalle
North Dakota Supreme Court
600 E. Boulevard, Dept., 180
Bismarck, North Dakota 58505

ORIGINAL

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State of North Dakota
SUPREME COURT IN THE OFFICE OF THE
CLERK OF SUPREME COURT
March 5, 2008

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Dear Chief Justice VandeWalle:

An objective in the Judicial Education Commission Strategic Plan is to review Administrative Rule 36. The Commission members recently reviewed the Rule and have approved amendments addressing a name change, membership, and educational requirements.

Another objective is to strengthen the relationship with the Technology Committee and open channels of communication. The Commission has proposed an amendment to Administrative Order 9 that would add the Director of Education and Communication as an ex officio member of the Technology Committee.

Below is a summary and explanation of the proposed amendments.

Administrative Rule 36

Rule 1

- 1) Name change: From Continuing Judicial Education Commission to the Judicial Branch Education Commission. This language is more inclusive of the educational opportunities provided for all judicial branch employees, not just judicial officers. This change was made in all references to the Commission.
- 2) Membership:
 - a. Broaden the qualification of membership from support staff of the courts of record to include employees of clerk of court or trial court administration offices. This change allows clerks and court administrators to be eligible for service on the Commission, allowing a wider range of employees to have input into educational policies. The number of members would remain the same.
 - b. Change all references to education and special projects director to Director of Education and Communication.
 - c. Add the director of the Court's IT department, or designee, as an ex officio member of the Commission. As we move toward providing education through IVN and other distance education platforms, it is important to work with the Court's IT department. We believe this can be best served by having a member of that department serve on the Commission.

Rule 3

- 1) Define personnel as those involved in providing judicial services to the citizens of North Dakota from any municipal, district, or appellate court of the State of North Dakota, or any municipal subdivision thereof. This language was added to be inclusive of municipal court clerks and clerks of court offices that are not directly employed by the state judicial system, but provide judicial services.

Rule 4

- 1) Municipal judge training: The requirements were changed to 18 hours every three years in lieu of 8 hours every year. Municipal judges have been somewhat unhappy with the once a year format for some time. This change provides flexibility for those judges and is in line with the reporting periods for the other judicial officers. Language was also included to allow for pro-rated education credits for judges elected/appointed within the reporting period. The commission will revise the guidelines for alternative methods of earning credits, including a self-study provision.
- 2) Juvenile court officers: Language was added to allow for pro-rated education credits for officers hired within the three-year reporting period.

Rule 5

- 1) Duties of Commission: Language was deleted that implied the Commission only provided educational programs for individuals required to have judicial training or continuing education. Language inclusive of all individuals providing judicial services was added.

**Administrative Order 9
Proposed Amendment**

A. Membership: Adds the Director of Education and Communication as an ex officio member of the Committee. This is requested to ensure that the technology needs of the education department are being met and to provide insight for the Commission on future training/education needs related to technology.

The Commission is asking the Supreme Court to review and adopt the amendments as proposed.

Sincerely,



Mary Muehlen Maring, Chair
Continuing Judicial Education Commission

Enclosures: Proposed Amendments to AR 36
Proposed Amendments to AO 9

**Administrative Rule 36 - NORTH DAKOTA RULES ON CONTINUING
JUDICIAL BRANCH EDUCATION**

Rule 1. ~~Continuing~~ Judicial Branch Education Commission.

(a) There is established within the North Dakota judicial system the ~~Continuing~~-Judicial Branch Education Commission consisting of nine members. All members shall be appointed by the executive committee of the Judicial Conference. Five members must be appointed from among the judges of the courts of record of this state. One member must be appointed from each of the following classes:

- (1) Juvenile court personnel;
- (2) Support staff of the courts of record ~~of this state~~ or employees of clerk of court or trial court administration offices;
- (3) The faculty of the University of North Dakota Law School; and
- (4) Judges who serve on courts not of record.

(b) The members of the Commission shall designate one of the nine members to chair the commission.

(c) The state court administrator, ~~or designee, and the education and special projects coordinator~~ Director of Education and Communication, and the head of the judicial branch's IT department, or their designees, are ex officio members of the commission, but may not vote.

(d) Of the members of the commission initially appointed, three must be for a one-year term, three for a two-year term, and three for a three-year term. Thereafter, each member must be appointed for a three-year term, except an appointment to an unexpired term. The initial term of each member of the commission must be determined by lot at the first meeting of the commission.

(e) A member of the commission may not serve more than three consecutive three-year terms, but may serve until a successor is appointed and has qualified. A former member who served three consecutive terms is eligible for reappointment after a six-year break in service

Rule 2. Powers and Duties of Commission.

(a) The commission has general supervisory authority over the administration of this Rule.

(b) The state court administrator shall, with available funds, provide staff assistance to the commission including ~~an education and special projects coordinator~~ the Director of Education and Communication.

Rule 3. Powers and Duties of ~~Coordinator~~ Director.

The ~~coordinator~~ Director shall:

(1) assist the commission in planning an integrated, ~~continuing~~ education program for all personnel involved in providing judicial services to the citizens of North Dakota from any municipal, district or appellate court of the State of North Dakota, or any municipal subdivision thereof of the unified judicial system;

(2) provide all administrative assistance for the presentation of educational conferences and programs;

(3) assist the commission in making application for and administering special grant programs;

(4) assist the commission in developing cooperative agreements with other states and organizations, such as the National Judicial College, that are qualified to provide judicial education conferences and demonstration projects;

(5) promote effective teaching techniques for the presentation of materials at judicial conferences and institutes;

(6) perform other additional duties assigned by the commission from time to time.

Rule 4. Mandatory Continuing Education Requirements.

(a) Each judge of a court of record of this state, including the surrogate judges, justices of the supreme court, and each judicial referee, must complete at least 45 hours of approved course work in continuing judicial education, at least three of which must be in judicial ethics, during each three-year period of tenure, commencing July 1, 1993.

(b) Each municipal judge must complete at least ~~eight~~ 18 hours of approved course work in continuing judicial training per year education during each three-year period of tenure, commencing July 1, 2008. In addition, each new municipal judge must complete a judicial orientation course within the first three months of taking office. Municipal judges serving at least 1 year, but less than 2, from the end of the last three-year reporting period will be required to report 6 continuing education hours; those serving at least 2 years, but less than 3, will be required to report 12 continuing education hours. Continuing education requirements for those with less than 1 full year of service will be waived.

(c) Each magistrate appointed under Section 27-05-31, NDCC, must attend a continuing education program every odd calendar year as provided by the Continuing Judicial Branch Education Commission.

(d) Each juvenile court director and court officer must complete at least 40 hours of approved course work during each three-year period, commencing July 1, 2005. In addition, each new court officer must complete an orientation program within the first six months of taking office. Officers employed at least 1 year, but less than 2, from the end of the last three-year reporting period will be required to report 13 continuing education hours; those employed at least 2 years, but less than 3, will be required to report 26 continuing education hours. Continuing education requirements for those with less than 1 full year of employment will be waived.

Rule 5. Duties of Commission.

The commission shall:

(1) develop high quality judicial branch training and continuing education programs in this state for individuals involved in providing judicial services to the citizens of North Dakota from any municipal, district or appellate court of the State of North Dakota, or any municipal subdivision thereof, ~~required to have judicial training or continuing education to~~ enhance performance of their duties in the unified judicial system and their professional growth, and to provide them with a reasonable opportunity to fulfill any mandatory continuing legal educational requirements;

(2) develop and cooperate with other states, Canadian Provinces, and judicial branch training and continuing educational organizations, in presenting regional training and educational programs;

(3) develop and recommend to the Supreme Court a biennial budget for mandatory judicial branch training and continuing education;

(4) seek, apply for, and administer grants to fund other judicial branch training and continuing educational projects approved by the commission;

(5) develop a resource library of materials on judicial branch training and continuing education, including bench books, manuals, instructional materials, video tapes, and other judicial aids;

(6) receive, review, and grant applications for funds for expenses of attendees for attending judicial branch training and continuing educational programs conducted out of state, in accordance with policies adopted by the commission;

(7) draft, review, and recommend appropriate legislation and rules of court relating to judicial branch training and continuing education; and

(8) perform such related functions as may be necessary or desirable to improve the delivery of judicial branch training and continuing educational services to the unified judicial system of this state.

Rule 6. Crediting Attendance of Programs.

(a) The commission shall give credit for attendance at a judicial branch training or continuing educational program sponsored or approved for credit by the commission on the basis of one hour for each hour of attendance. If a program is attended out of state, an applicant for credit must furnish the commission a description of the program and the number of qualifying hours. The commission will review the information and promptly notify the applicant of the number of credits to be approved.

(b) The commission shall determine what shall constitute "approved course work." Courses sponsored by the following organizations and their associated entities shall be presumptively approved:

- (1) North Dakota Judicial System;
- (2) National Judicial College;
- (3) American Bar Association;
- (4) American Academy of Judicial Education;
- (5) National Council of Juvenile and Family Court Judges;
- (6) American Law Institute;
- (7) American Judicature Society;
- (8) Institute for Court Management;
- (9) State Bar Associations;
- (10) Accredited law schools;
- (11) American Trial Lawyers Association;
- (12) North Dakota Trial Lawyers Association;
- (13) National Institute of Trial Advocacy;
- (14) Defense Lawyers Institute;
- (15) American Parole and Probation Association;

(16) Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice;

(17) National Conference on Juvenile Justice;

(18) National Drug Court Institute;

(19) National Association of Drug Professionals;

(20) Native American Training Institute - Indian Child Welfare Act Conference; and

(21) National Center for State Courts.

(c) The commission may grant credit for self-study courses and other educational means approved in advance on a case-by-case basis. Twenty percent of the required hours for any reporting period may be acquired through self-study

Rule 7. Crediting Attendance as Faculty.

A judge who serves on the faculty of an approved judicial education or continuing legal education course is entitled to claim as continuing judicial education hours an amount of time equal to the judge's actual presentation and up to two times the presentation time for preparation. A judge who serves on a panel may claim the entire time of the panel presentation as presentation time.

A judge claiming continuing judicial education hours for faculty participation shall list those hours on the Judicial Education Report provided to the judge annually or by separate affidavit. A judge may claim only fifteen (15) judicial education hours for faculty participation in any one reporting period.

Rule 8. Self-Reporting Requirements.

Within 30 days after the end of each reporting period, commencing July 1, 1993, each individual subject to the mandatory training or educational requirements of this Rule must submit, on a form furnished by the commission, a statement of the courses and hours completed during the reporting period.

Rule 9. Noncompliance.

The commission may grant an extension of time for completion of the requirements of this Rule, including the duty to self report, to an individual who fails to meet the requirements and shows good cause for noncompliance. If the individual fails to comply within the extended time, the commission shall report the dereliction to the North Dakota

Judicial Conduct Commission or the employee's supervisor for appropriate action against the individual.

Rule 10. Transitional Provisions.

On July 1, 1993, the Judicial Training Committee of the Judicial Conference is dissolved and the bylaws of the committee are superseded by this Rule.

Rule 11. Repeal.

Administrative Rule 30.1, Mandatory Continuing Judicial Education for Municipal Court Judges, is repealed by this Rule.

Rule 12. Effective Date.

This Rule, as further amended, is effective _____, ~~2008 April 1, 2006~~.

Dated _____, ~~2008 March 1, 2006~~.

Administrative Order 9 - COURT TECHNOLOGY COMMITTEE

This Order establishes a Court Technology Committee and is in effect until further Order of the Court.

A. Membership - Staffing

1. The Chief Justice, in consultation with the Supreme Court, appoints judges and administrative staff of the judiciary to serve on the Committee. No more than 11 members shall be appointed, for three year terms. A member may not serve more than three consecutive terms. A former member who served three consecutive terms is eligible for reappointment after a six-year break in service. The Director of Education and Communication shall be an ex officio member of the Committee.

2. The Committee is chaired by a member appointed by the Chief Justice for a three-year term, or until the chair's term on the Committee expires.

3. The Committee is staffed by the Director of Technology.

B. Expenses

Expenses incurred by members are reimbursed by the District Court or Supreme Court, whichever is appropriate.

C. Purpose

The purpose of the Committee is to:

1. Develop uniform rules for the management of data processing activities, including access to or release of information.

2. Ensure the coordination of hardware and software acquisition and system development.

3. Provide guidelines for the use and acquisition of new technologies.

4. Submit a biennial plan for the development and implementation of technologies in the various court systems, including priorities and budget impact, to the State Court Administrator for the Supreme Court's consideration.

5. Establish standards for communication, required information, and protocols, for any court information system developed locally.

D. Effective Date

This Order is effective immediately and remains in effect until further Order of this Court.

Dated March 1, 2006.

Source: Adopted effective immediately, December 17, 1997; amended effective April 1, 2006 (Supreme Court No. 20060059); and effective _____, 2008 (Supreme Court No. _____).