

Management Overview

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Management Overview

1-01 MICHIGAN COURT SYSTEM

See an organization chart of the Michigan court system at:
<http://courts.michigan.gov/scao/resources/other/OrgChart.pdf>.

1-02 JUDICIAL POWER – ONE COURT OF JUSTICE

A. Authority

The current (1963) Michigan Constitution created "one court of justice," incorporating the concept that the state of Michigan has a single court with several divisions. Article 6, Section 1 of the Constitution invests the judicial power of the state exclusively in one court of justice, divided into one Supreme Court, one Court of Appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the Legislature may establish by a two-thirds vote of the members elected to, and serving in, each House. Each of these several divisions devotes attention to judicial administration.

1-03 CHIEF JUDGE RULE – MCR 8.110

A. Applicability

The Chief Judge Rule applies to all trial courts; i.e., the judicial circuits of the circuit court, the districts of the district court, the probate court in each county, or a probate district established by law and the municipal courts.

B. Chief Judge, Chief Judge Pro Tempore, and Presiding Judges of Divisions

1. The Supreme Court shall select a judge of each trial court to serve as chief judge. No later than September 1 of each odd-numbered year, each trial court with two or more judges may submit the names of no fewer than two judges whom the judges of that court recommend for selection as chief judge.
2. Unless a chief judge pro tempore or presiding judge is named by the Supreme Court, the chief judge shall select a chief judge pro tempore and a presiding judge of any division of the trial court. The chief judge pro tempore and any presiding judges shall fulfill such functions as the chief judge assigns.
3. The chief judge, chief judge pro tempore, and any presiding judges shall serve a two-year term beginning January 1 of each even-numbered year, provided that the chief judge serves at the pleasure of the Supreme Court and the chief judge pro tempore and any presiding judges serve at the pleasure of the chief judge.
4. Where exceptional circumstances exist, the Supreme Court may appoint a judge of another court to serve as chief judge of a trial court.

C. Duties and Powers of Chief Judge

1. A chief judge shall act in conformity with the Michigan Court Rules, administrative orders of the Supreme Court, and local court rules, and should freely solicit the advice and suggestions of the other judges of his or her bench and geographic jurisdiction. If a local court management council has been created by a funding unit and adopts the bylaws, as described in Administrative Order 1998-5, the chief judge shall exercise the authority and responsibilities under this rule in conformity with the provisions of Administrative Order 1998-5.
2. The chief judge shall select a chief judge pro tempore, who shall fulfill such functions as the chief judge assigns.

1-04 GENERAL MANAGEMENT DUTIES OF CHIEF JUDGE

A. General Responsibility

It is assumed throughout the materials in this reference guide that all the duties and responsibilities enumerated in the Chief Judge Rule and in this reference guide apply equally to the sole judge in a single-judge court. Obviously, there will be no need for a chief judge pro tempore or for the selection of a chief judge in a single-judge court.

B. Specific Duties

1. Presiding Officer

Specific duties of the chief judge include acting as presiding officer of the court. As presiding officer of the court, a chief judge shall call and preside over meetings of the court and appoint committees of the court.

2. Director of Administration

As director of the administration of the court, a chief judge has administrative superintending power and control over the judges of the court and all court personnel. The chief judge has authority and responsibility to effect compliance by the court with all applicable court rules and provisions of the law. Furthermore, the chief judge has the authority and responsibility to perform any act or duty or enter any order necessarily incidental to carrying out the purposes of the chief judge rule. (MCR 8.110[C][1], [2], [3])

3. Delegation of Duties

The chief judge may delegate administrative duties to a trial court administrator or others. (MCR 8.110[C][6])

4. Internal and External Court Relations

As presiding officer of the court, a chief judge shall initiate policies concerning the court's internal operations and its position on external matters affecting the court; represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, the general public, and the news media, and in ceremonial functions; and counsel and assist other judges in the performance of their responsibilities. The chief judge of each trial court, the other judges of that bench, and the court administrator must establish and maintain an environment that promotes and protects equal opportunity, bias free attitudes, and fair treatment. See also page 1-07-02. A chief judge must meet regularly with all chief judges whose courts are wholly or partially

within the same county. (MCR 8.110[C][2][d], Administrative Order 1998-5)

1-05 TRIAL COURT ADMINISTRATORS

A. Authority and Scope

MCR 8.110(C)(6) provides for delegation of administrative duties by a chief judge to a trial court administrator or others. The duties of these trial court administrators vary depending upon the location and size of the court in which they are employed. The court administrator functions in management areas rather than legal areas. They provide an executive component to the court, blending judicial management skills with the discipline of business and public administration.

B. Function

Professional administrators, under the general guidance of judges, manage the business of the court. It should be emphasized that all judges, particularly the chief judge, are responsible for the administration of the court. The judges determine the policy; the court administrators implement this policy.

Court administrators employed by the court work in a complex environment. The court administrator serves a dual function of increasing the amount of time the judge has for adjudication and bringing professional management knowledge and experience to the judiciary. Professionally trained administrators, schooled in judicial procedures and modern administrative principles, can provide court systems with managerial confidence.

Court administrators can serve efficiently and effectively in small courts with two or three judges, as well as in the larger courts. Professional administrators can administer juries, handle budgets, administer and supervise personnel, automate systems, and reduce delay. Regardless of the size of the court, the success of a court administrator depends largely on clearly defined job descriptions, acceptance by the judges, appropriate funding, and good communication between the court administrator and others in the court system. In order to make the best use of the court administrator position, courts should clearly delineate the duties and clarify the functions of the administrator. The judicial policy implemented by the court administrator should be clearly documented and defined.

1-06 ADOPTING LOCAL COURT RULES, ADMINISTRATIVE ORDERS, AND PLANS

A. Introduction

Generally, local court rules are adopted to supplement the Michigan Court Rules. Local court rules regulate practice in the court adopting them. Since the Michigan Court Rules were adopted effective March 1, 1985, the Supreme Court has approved few local court rules. The court's goal is to achieve uniformity of practice through the Michigan Court Rules.

Local administrative orders are adopted to govern only internal court management. Trial courts are encouraged to adopt administrative orders to document delegations of authority and directions to court staff. Guidelines for local court rules and administrative orders are located at http://courts.michigan.gov/scao/resources/standards/lao_guidelines.pdf and http://courts.michigan.gov/scao/resources/standards/lcr_guidelines.pdf.

B. Local Court Rules

1. Authority

A trial court may adopt rules regulating practice in that court. These rules are not to be in conflict with the Michigan Court Rules and are to regulate matters not covered by the court rules. (MCR 8.112[A])

2. Purpose

If a practice of a trial court is not specifically authorized by the Michigan Court Rules and: (1) reasonably depends on attorneys or litigants being informed of the practice for its effectiveness, or (2) requires an attorney or litigant to do some act in relation to the practice before that court, the practice, before enforcement, must be adopted by the court as a local court rule and approved by the Supreme Court.

3. Notice of Proposed Local Court Rules

Unless a trial court finds that immediate action is required, it must give reasonable notice and an opportunity to comment on a proposed local court rule to the members of the bar in the affected judicial circuit, district, or county. The court shall send the rule and comments received to the Supreme Court clerk.

4. Numbering

If possible, the numbering of a local court rule supplementing an area covered by the Michigan Court Rules must correspond with the numbering of the Michigan Court Rules and bear the prefix LCR.

C. Local Administrative Orders

1. Authority, Scope, and Procedure

A trial court may issue an administrative order governing only internal court management. Administrative orders must be sequentially numbered during the calendar year of their issuance. Before its effective date, an administrative order must be sent to the state court administrator. If the state court administrator directs, a trial court shall stay the effective date of an administrative order or shall revoke it. A trial court may submit such an order to the Supreme Court as a local court rule. (MCR 8.112[B])

2. Required Local Administrative Orders

All trial courts are mandated to issue local administrative orders to establish court policies for regulating certain procedures. For detailed information about required local administrative orders and models for those local administrative orders, see <http://www.courts.mi.gov/scao/resources/other/lao.htm#top>.

3. Local Administrative Orders Required Under Certain Circumstances

In addition to the mandated local administrative orders, there are a number of local administrative orders that are required under certain circumstances. Also, a court may, but is not "required" to, delegate authority and issue directives to court staff about certain functions. These functions are: (1) arraignment on information in criminal cases, (2) public access to court records, (3) providing forms to litigants and lawyers, and (4) authorizing probate registers to sign for the judge. If a court opts to delegate authority or issue directives regarding any of the above, a local administrative order is then required.

For detailed information about local administrative orders that are required under certain circumstances and models for some of those local administrative orders, see <http://courts.michigan.gov/scao/resources/other/lao.htm>.

4. Recommended Local Administrative Orders

Although not required by Michigan Court Rule, it is strongly recommended that delegation of authority for the county agent, family division probation officer, referee, juvenile register, and district court magistrate be documented through local administrative order. See <http://courts.michigan.gov/scao/resources/other/lao.htm> for more information about recommended local administrative orders. Models for these orders may be available.

D. Required Plans

There are a number of plans that are required for certain areas of court administration. They are: (1) *Plan for Appointment of Counsel for Indigent Defendants, (2) Plan for Judicial Availability, (3) *Plan for Caseflow Management, (4) *Plan for Family Court, (5) *Plan for Remote Hearings on Support and Parenting Time Enforcement Act Bench Warrants, and (6) *Plan Involving Children Who are Absent Without Legal Permission (AWOLP).

Plans that are to be implemented through a local administrative order are designated by an asterisk (*).

For more information about plans and model local administrative orders for those plans, see <http://courts.michigan.gov/scao/resources/other/lao.htm>.

1-07 COURT RELATIONS – EXTERNAL AND INTERNAL

A. External Relations with Local Funding Unit, Legislature, Local Bar Association, Other Institutions, and General Public

A chief judge shall initiate policies concerning the court's position on external matters affecting the court. Furthermore, a chief judge shall represent the court in its relations with the Supreme Court, other courts, other agencies of government, the bar, and the general public. The chief judge also represents the court in its relations with the news media and in ceremonial functions involving the court. (MCR 8.110[C][2], Administrative Order 1998-5)

1. Local Court Management Councils

By Administrative Order 1998-5, issued December 28, 1998, the Supreme Court provided direction to the courts in serving on local court management councils created by funding units. In serving as a member of a council, a chief judge assists in the development of agreements on court personnel policies and budgets with local officials. A county that funds circuit, probate, and district courts may choose to create a single council that includes chief judges from all three types of courts, thus opening up new avenues of communication and coordination among them. Similarly, in the state's many multicounty circuits and districts, local court management councils hold the promise of helping to deliver more streamlined court services and cost savings to the taxpayers.

Disagreements between courts and their funding units about court financial needs can result in legal suits. Although the State Court Administrative Office mediates these funding disputes pursuant to Administrative Order 1985-6, under Administrative Order 1998-5, representatives of funding units, as well as chief judges, may request the assistance of the State Court Administrative Office to mediate situations involving potential disputes at any time before differences escalate to the level of a formal funding dispute.

B. Internal Relations of the Court

The chief judge shall initiate policies concerning the court's internal operations. The chief judge shall counsel and assist other judges in the performance of their responsibilities. (MCR 8.110[C][2])

C. Gender and Racial/Ethnic Issues in the Courts

The Supreme Court is committed to ensuring the fair and equal application of the rule of law for all persons in the Michigan court system. On September 15, 1987, the justices of the Michigan Supreme Court issued Administrative Order 1987-6 creating the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. The Supreme Court directed the task forces "to examine the courts and to recommend revisions in

rules, procedures, and administration of the courts to assure equal treatment for men and women, free from race and gender bias.” The task forces completed their final reports in December 1989. Based on the conclusions and recommendations received from the task forces, the Supreme Court has directed that judges, employees of the judicial system, attorneys, and other court officers commit themselves to eliminating racial, ethnic, and gender discrimination in the Michigan judicial system. (Administrative Order 1990-3) See also Section 11-07.

1-08 MANAGEMENT ASSISTANCE

In order to ensure high professional standards throughout the various trial courts in the system, a variety of types of management assistance is available. The State Court Administrative Office and the National Center for State Courts assist chief judges and trial court administrators with improving the management and business of the court. Assistance is available, but not limited to, the areas of caseflow management studies, court record management studies, and court facility needs studies.

Various professional organizations also provide another avenue for keeping abreast of current advancements affecting the management of the courts. Such organizations include the National Association for Court Management and the following.

A. Circuit Court Related

- Michigan Judges Association
- Michigan Association of County Clerks
- Michigan Association of Circuit Court Administrators
- Michigan Association of Family Court Administrators
- Michigan Association of Circuit Court Professionals
- Michigan Association of Court Mediators
- Michigan Friend of the Court Association
- Michigan Probate and Juvenile Registers Association
- Northern Michigan Juvenile Officers Association
- Juvenile Justice Association of Michigan
- Referees Association of Michigan

B. District/Municipal Court Related

- Michigan District Judges Association
- Michigan Court Administration Association
- Michigan Association of District Court Magistrates
- Michigan Association of District Court Probation Officers

C. Probate Court Related

- Michigan Probate Judges Association
- Michigan Probate and Juvenile Registers Association

D. Court Reporter and Recorder Related

- Michigan Association of Professional Court Reporters
- Michigan Electronic Court Reporters Association
- National Court Reporters Association