



# JUDICIAL PERSONNEL RULES AND REGULATIONS

JANUARY 2007

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## **ARTICLE 1. AUTHORITY**

With the passage of the 2004-2005 Budget Article 45 the Rhode Island Judiciary was given broad power over its administrative affairs. R.I.G.L. § 8-15-4(c). Included in the broad grant of authority over its administrative affairs was control over Judicial personnel including, but not limited to, power over the appointment, promotion, salaries, tenure, and dismissal of judicial employees. R.I.G.L. § 36-4-2.1.

## **ARTICLE 2. PURPOSE AND POLICY**

The following rules and regulations contain a fully integrated set of policies and procedures to govern the Judiciary in its exercise of personnel control, independent of the Executive Department. These rules and regulations take into consideration and conform to, where practicable, existing policies governing personnel practices within the Executive branch of government. Overall, the Judicial Personnel Rules and Regulations seek to further the policies of the State Merit System Act as set forth in Chapters 3 and 4 of Title 36 of the Rhode Island General Laws.

The Judicial Personnel Rules and Regulations aim to guarantee to all citizens a fair and reasonable opportunity for public service with the Judiciary, to establish conditions of service which will attract employees of character and capacity, and to increase the efficiency of the departments within the Judiciary by improved methods of personnel administration.

The following personnel rules and regulations cover all employees employed by the Rhode Island Judiciary, except judicial officers unless specifically provided. Additionally, the conduct of all judicial employees is governed by the provisions of the *Rhode Island Judiciary Employee Handbook*.

## **ARTICLE 3. GENERAL PROVISIONS**

### **Section 3.01 Scope**

Except as provided herein, these rules and regulations apply to all positions within the Rhode Island Judiciary except judicial officers, unless specifically provided. Whenever the provisions of a collective bargaining agreement conflict with the provisions of these rules and regulations, the provisions of the collective bargaining agreement shall control.

### **Section 3.02 Appointing Authority General Responsibilities**

Appointing Authorities are responsible for assuring that employees within their courts are promptly informed of the promulgation of these rules and regulations. These rules are available at the Employee Relations Office, 6<sup>th</sup> Floor, Licht Judicial Complex, 250 Benefit Street, Providence, RI, 02903, (401)222-2700.

### **Section 3.03 Judicial Equal Employment Opportunity Advisory Committee**

There shall be a Judicial Equal Employment Opportunity Advisory Committee (JEEOAC) consisting of judicial employees appointed by the Chief Justice of the Supreme Court which shall conduct an ongoing review of all job descriptions to ensure that any discriminatory language is eliminated. A quorum shall consist of a majority of the JEEOAC members so appointed and the Committee shall meet as circumstances require. The JEEOAC shall submit a report to the State Court Administrator describing any and all action taken by the Committee immediately after such action is taken.

### **Section 3.04 Equal Employment Opportunity**

The Judiciary ensures that all employees and applicants for employment are provided equal employment opportunity, without discrimination on the basis of race, color, religion, sex, national origin, handicap, sexual orientation, gender identity or expression, or age through a continuing affirmative action program.

### **Section 3.05 Definitions**

For the purposes of these rules and regulations, the below terms shall have the following meanings:

<b>ABOLISHMENT:</b>	The elimination of a position.
<b>AFFIRMATIVE ACTION:</b>	The use of positive and aggressive measures to ensure equal opportunity, and to remedy the effects of present and past discriminatory practices.
<b>APPOINTING AUTHORITY:</b>	Person or group of persons having the power by virtue of the constitution, a state statute, or lawfully delegated authority to make appointments.
<b>APPOINTMENT:</b>	Various types of appointments include the following: (a) Emergency, (b) Limited Period, (c) Provisional; (d) Original; (e) Re-employment
<b>AUTHORIZED AGENT:</b>	An individual who has the authority to act on behalf of his/her superior for matters which are within the supervisor's authority and which the supervisor is empowered to delegate.
<b>CLASSIFIED EMPLOYEE:</b>	Any person holding a position in the classified service.
<b>CLASSIFIED SERVICE:</b>	All offices and positions of trust or employment in state service except those placed in the unclassified service by Title 36, Chapter 4 of the Rhode Island General Laws or any other legislation.

DEMOTION:	A voluntary or involuntary change of an employee from one position to another lower position for which a lower maximum rate of pay is provided.
DISCHARGE:	The permanent, involuntary separation of a person from employment by an Appointing Authority. <i>See also</i> Termination.
DISMISSAL:	<i>See</i> Discharge, Termination.
DUTY:	A work activity, function, or project recognized by management as being a principal responsibility of a position.
EMERGENCY APPOINTMENT:	A temporary appointment made for a specified time (generally thirty (30) working days) that is approved by the State Court Administrator to cover an emergency.
EMPLOYEE:	Any person holding a position in Rhode Island state government subject to appointment by an Appointing Authority.
EMPLOYEE ASSISTANCE PROGRAM (EAP):	A counseling program that offers assessment, short-term counseling, and referral services to employees for drug, alcohol, mental health and other problems that might affect employee job performance.
EQUAL EMPLOYMENT OPPORTUNITY:	The removal of all barriers to employment, which impermissibly discriminate against certain groups of individuals. This applies to the areas of hiring, promotion, demotion, transfer, recruitment, layoff or termination, rate of compensation, in-service or apprenticeship programs, and all other terms and conditions of employment.
FLEXTIME:	A program that allows participating employees to schedule work hours within the guidelines established by their Appointing Authority.
IMMEDIATE FAMILY:	Includes an employee's wife, husband, child (including foster child), mother, father, brother, sister, mother-in-law, father-in-law, grandmother, grandfather, grandchild, or any other family relative residing in the employee's household. The term "immediate family" also includes domestic partners of the same or opposite sex who have lived in the

same household for at least one (1) year and have made a commitment to continue to live as a family. (For the definition of “domestic partner” *See* R.I.G.L. § 36-12-1 (3)).

**INVOLUNTARY RESIGNATION:** A separation from state service by an action of the Appointing Authority.

**JUDICIAL OFFICER:** A judge, magistrate, or other employee who performs judicial functions as provided by constitution, statute or court rule or order.

**LAYOFF:** An involuntary separation of an employee from a position in the state service either by reason of reduction of force due to lack of work or lack of funds or by reason of the abolishment of the position.

**LIMITED PERIOD APPOINTMENT:** Either a temporary, original, or promotional appointment of a person to a position for a stated limited period of time.

**LIMITED PERIOD POSITION:** Any position in the unclassified service which is established for a stated period of time, whose duration is greater than fourteen calendar days, but not in excess of one year.

**LONGEVITY:** Longevity is defined as continuous or non-continuous total length of service with the State of Rhode Island.

**ORIGINAL APPOINTMENT:** The appointment by an Appointing Authority of a person to a position in the Judiciary.

**OVERTIME:** Overtime work is defined as the required performance of work in excess of the established workweek for which the employees hourly rate plus ½ the hourly rate (“time and one-half”) shall be paid.

**PAY GRADE:** A salary range established for a particular position.

**PAY PLAN:** A schedule of salaries established for the several classes of positions recognized in the Judicial Pay Plan so that all positions of a given class will be paid the same salary rate or range established for the class.

**PERSONS WITH DISABILITIES**

**LIST:** A list of persons with disabilities certified by the Division of Vocational Rehabilitation as physically capable and adequately trained to perform the duties and responsibilities of a specified class. Such persons may be appointed with temporary status for five (5) months in lieu of competitive examination at which time the Appointing Authority must certify whether the performance of the individual so appointed has been satisfactory and if so request that the individual be placed in probationary status.

**POSITION:** *Full time:* Any office or place of employment in state government.

*Part time:* Any position, which is established with a work schedule, having fewer hours than the official workweek to which the class is assigned.

**PROMOTION:** A change of an employee from one position to another higher position for which a higher maximum rate of pay is provided

**RACE/ETHNIC GROUPS:** *White (not of Hispanic origin):* All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Black/African American (not of Hispanic origin):* All persons having origins in any of the Black racial groups of Africa.

*Hispanic/Latino:* All persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race. Only those persons of Central or South American countries who are of Spanish origin, descent or culture should be included in this classification. Persons from Brazil, Guyana, Surinam or Trinidad, for example, would be classified according to their race and would not necessarily be included in the Hispanic classification. In addition, this classification does not include persons from Portugal who should be classified according to race.

*Asian or Pacific Islander:* All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. The Indian subcontinent takes on the

countries of India, Pakistan Bangladesh, Sri Lanka, Nepal, Sikh and Bhutan.

*American Indian or Alaskan Native:* A person having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

RESIGNATION:

Voluntary separation from state service including state judicial service.

SENIORITY:

Types of Seniority include the following:

*Primary Seniority:* Length of service within a class of position.

*Secondary Seniority:* Length of service in which an employee has worked in the next previous position.

*State Seniority:* Length of continuous service in which an employee has worked for the State in the classified, unclassified or nonclassified service. A leave of absence does not constitute a break in service.

*Bargaining Unit Seniority:* Length of service in a union recognized by the State Labor Relations Board as a bargaining unit and assigned an EE number by the State Labor Relations Board.

*Union Seniority:* Length of service in a union recognized by the State as a collective bargaining agent by the State Labor Relations Board.

SICK LEAVE:

A necessary absence from duty due to illness, injury, or exposure to contagious disease and may include absence due to illness or death in the immediate family of the employee or necessary attendance upon a member of the immediate family who is ill.

STATE SERVICE:

All offices and positions of trust or employment in the service of the State, including offices and positions within the Judiciary.

SUSPENSION:

A temporary involuntary separation of a person from employment by his/her Appointing Authority.

TEMPORARY EMPLOYEE:	A person who has been appointed for a limited period or who fills a limited period position. <i>See</i> “limited period appointment” and “limited period position.”
TERMINATION:	A permanent separation from state service including state judicial service.
TIME AND ONE HALF:	The sum of an employee’s regular hourly rate plus one-half (½) the employees regularly hourly rate.
TRANSFER:	A change of an employee from one position to another in the same class and pay grade.
UNAUTHORIZED ABSENCE:	An absence from work for which no proper notice has been given to the Appointing Authority by the employee, or person authorized to do so, or for which no approval was given. If such absence extends more than five (5) work days, the absence shall be deemed to be an abandonment of his/her position and to be a permanent and voluntary separation from state judicial service.
UNCLASSIFIED SERVICE:	Those positions, which under Title 36, Chapter 4 or other applicable statutes, either are excluded from the classified service, nonclassified service, and/or are specifically included in the unclassified service.
WAR VETERAN OR VETERAN:	Any person, male or female, who was employed as an officer, member of the enlisted personnel or otherwise in the active military or naval service of the United States or of any auxiliary unit of the military or naval service or the period between December 7, 1941, and December 31, 1946, or who was engaged in the active conduct of and/or fighting in the Korean Campaign (active conduct of and/or fighting in the Korean Campaign, shall mean service by any man or woman of the armed forces of the United States between June 27, 1950, and January 31, 1955), or the conflict in Vietnam (active conduct of and/or fighting in the conflict in Vietnam shall mean service by any man or woman of the armed forces of the United States between August 5, 1964, and May 7, 1975), and who served for at least six (6) months and one day; provided, however, that the definition shall not include any person who has been separated from such employment or service, except through honorable discharge, if the reason for such separation shall be deemed by the Personnel Administrator to be sufficient cause to deny such inclusion. Also, includes other

campaigns of war as described in Section 30-22-3 of the Rhode Island General Laws.

**WORKWEEK:** A period of hours scheduled to be worked within a seven (7) day period beginning on Sunday.

### **Section 3.06 Organizational Charts**

All courts are required to prepare and maintain organizational charts indicating the function(s) and authoritative structure of the agency. Such charts shall be available to the State Court Administrator upon request.

## **ARTICLE 4. JUDICIAL PAY PLAN**

### **Section 4.01 Judicial Pay Plan Administration**

Whenever new positions are authorized and created, whenever the duties and responsibilities of existing positions change, or whenever circumstances require, the Chief Justice or his designee shall allocate or reallocate the affected positions.

## **ARTICLE 5. APPOINTING AUTHORITY**

Whenever under the provisions of these rules and regulations any action is permitted or required to be done by an Appointing Authority, the appointing authority may delegate the responsibility for the performance of that action to such subordinate officers or employees as he or she may see fit; provided, however, that no authority to discharge or otherwise terminate or suspend an employee shall be delegated to a subordinate officer or employee unless the subordinate officer or employee has previously been delegated the authority to hire or appoint employees of category similar to that employee.

## **ARTICLE 6. APPOINTMENT**

### **Section 6.01 General Appointment Provisions**

An appointment to a position shall be made by Appointing Authorities or the Governor in accordance with state law and these rules and regulations, except where certain requirements and standards of the federal government apply for the operation of specific programs, and/or where the application of these rules and regulations is specifically waived by the Chief Justice or the State Court Administrator.

a. Notice of Vacancies

The Appointing Authority, with the approval of the State Court Administrator, shall prepare official notice of vacancies which shall include the following information:

- 1.) The title, salary range, and a brief statement of the duties to be performed;

- 2.) The opening and closing date of the application period and places where applications may be obtained;
- 3.) The minimum qualifications that are required for appointment to such positions including education and experience; and
- 4.) Any special requirements such as licensure in a specific profession, certifications, or motor vehicle operator's license, etc.

b. Publication

The official announcement of all vacancies shall be posted on the Judiciary's website, the Rhode Island Department of Labor and Training website, at court facilities and other locations that shall be deemed appropriate. Notice may also be published in at least one daily newspaper published in Rhode Island, and in other public media.

c. Applications for Vacancies

Applications for vacancies shall be made on forms prescribed by the State Court Administrator and may require information as to the education, training and experience of the applicant and such other information as (s)he may deem pertinent and appropriate.

d. Place of Filing Applications

Applications shall be filed with the Appointing Authority where the vacancy exists or as outlined in the notice on or before the time prescribed.

e. Selection and Appointment

The Appointing Authority may establish an interview committee to assist in the review of applications for employment. The Appointing Authority or interview committee shall review those applications that are qualified for the appointment. Upon the completion of the selection process by an interview committee, a list of qualified applicants shall be submitted promptly to the Appointing Authority.

## **Section 6.02 Appointment at Minimum Salary**

All appointments shall be made at the minimum salary applicable to the class except where the appointment is the result of a transfer, reemployment, or when an appointment above the minimum has been authorized pursuant to these rules and regulations.

a. Salary upon Transfer

Upon recommendation of the Appointing Authority, appointments of employees who leave one class of position to accept appointment in another class may be made at the existing salary of such employees, provided, however, that no appointment shall be made at any salary higher than the maximum of the range, except that the provisions of Section 7.02 ("Longevity Increases") shall apply to longevity increases. When under the provisions of this rule an existing

salary falls between two successive steps of the new salary range, the appointment shall be made at the higher step. However, upon recommendation of the Appointing Authority, an employee who leaves one class of position to accept appointment in a higher class of position, may be appointed at the nearest salary step of the new range which provides minimally for a salary adjustment which is equal to or greater than the difference between the first and second steps of the new class.

b. Salary upon Reemployment

Upon recommendation of the Appointing Authority concerned, an employee who has been terminated may be appointed to a position in his/her former service at a salary no less than the salary (s)he held prior to his/her termination, provided that the time elapsed between termination and appointment shall not exceed three years and provided that the salary at which appointment is made shall not be above the maximum of the grade in which (s)he is appointed.

c. Appointments Above Minimum: Salary Authorization

Whenever the Appointing Authority determines that there exists a critical shortage of qualified candidates for specific classifications or that it is impossible to timely recruit to a vacancy at the minimum salary of the range, the Appointing Authority, with the approval of the State Court Administrator, may appoint an employee at a salary above the minimum, provided that the Appointing Authority presents the State Court Administrator with sufficient proof of recruitment efforts and evidence of the shortage.

### **Section 6.03 Emergency Appointments**

In the case of an emergency, the Appointing Authority may request, in writing, that the State Court Administrator approve a temporary appointment of any person to any position without regard to provisions of these Rules and Regulations. Emergency appointments shall not continue for more than thirty (30) working days in a twelve-month period without prior written approval of the State Court Administrator upon a showing that the appointment is necessary to carry on work in the public interest.

### **Section 6.04 Work in a Higher Pay Grade**

When an employee is required to work in a position of a higher pay grade for a period of eleven (11) consecutive days or more, or for any number of days that may be stipulated in a particular union contract, such employee shall receive the lowest salary rate of that higher class which will provide a pay increase of at least one step over his/her present base rate retroactive to the first day of such assignment.

In accordance with §§ 36-4-59, 36-5-7, and 36-5-8 of the Rhode Island General Laws, an employee who has acquired the requisite number of service credit years shall be deemed to have acquired full status in the position (s)he holds at the time of obtaining such status or for any subsequent position(s). This provision shall not apply to those employees whose base entry date is after August 7, 1996.

### **Section 6.05 Terms of Appointment**

Unless otherwise provided by constitution, statute, federal law, regulations or terms of funding, all non-union judicial employees shall serve at will.

### **Section 6.06 Transfer of Employees**

The director of personnel with the approval of the State Court Administrator may transfer any non-union employee within the Judiciary to a comparable position for a period up to one year's duration, and may be further extended with the approval of the director of personnel.

## **ARTICLE 7. COMPENSATION AND BENEFITS**

### **Section 7.01 General Provisions**

Employees shall advance from the minimum to the maximum of the appropriate pay grade established within the Judicial Pay Plan. Salary and longevity increases shall accrue in accordance with these rules and regulations and shall take effect on the first day of a biweekly pay period next following the employee's anniversary date. Step increases shall be granted to new appointees after completion of six months of service, which is construed to be 13 biweekly pay periods and each year thereafter until the maximum of the range is attained. The effective date of salary increases shall be the start of the new pay period next following the employee's anniversary date.

### **Section 7.02 Longevity Increases**

a. Longevity is defined as continuous or non-continuous total length of service with the State of Rhode Island. In computing length of service for longevity purposes all state full-time employment, part-time employment and emergency appointments shall be counted. State representatives and senators will be given two years credit for each full term served, and pages, doorkeepers, and clerks of legislative committees will be given sixty (60) calendar days credit for each year served. Former members of boards and commissions may receive credit towards longevity if such service constituted, in whole or in part, a function of state government as determined by a three member panel consisting of the State Court Administrator, the Director of Personnel, and a representative designated by the employee's Appointing Authority. The applicant shall have the burden of proving such entitlement, and the number of days that should be credited.

b. If eligible, an employee, including judicial officers, shall be granted longevity increases according to the following formula unless modified by a particular union contract. The gross rate used to determine longevity is the base rate as it appears in the pay grade plus shift differential and incentive awards.

Years of Service	Percentage Increase On Gross Rate
5	5%
11	10%
15	15%
20	17.5%
25	20%

c. Changes in Positions - Effect on Longevity Percentage (%) Increases

Whenever an employee is receiving a longevity increase(s) and thereafter is promoted, demoted, reclassified or otherwise changes to a different pay grade or position, this change shall in no way affect the longevity percentage (%) increase which said employee is currently enjoying.

d. Salary Range Changes

Whenever a class of position is advanced from one range to another, the salary of each employee affected shall be advanced to the corresponding step in the new pay range. This action shall be called a pay plan adjustment and shall not be deemed a salary increase.

Employees enjoying the benefits of a longevity increase or increases on the effective date of any pay plan adjustment shall continue to have the benefit of their longevity increase(s) recalculated on the new base rate for the classification. Eligibility for future longevity increase(s) shall not be impaired.

**ARTICLE 8. CONDITIONS OF SERVICE**

Subject to the discretion of the State Court Administrator where compelling and exigent circumstances exist, the following working conditions apply to all employees, except for judicial officers.

**Section 8.01 Hours of Work**

- a. There are established the following basic workweeks:
- 35 hour workweek (five (5) days of seven (7) consecutive hours), exclusive of unpaid lunch periods;
  - 40 hour workweek (five (5) days of eight (8) consecutive hours), exclusive of unpaid lunch periods;
  - A non-standard workweek (five (5) days of at least 35 hours per week) not eligible for overtime, exclusive of unpaid lunch periods;
  - A non-standard/non-exempt workweek (an average of at least 35 hours per week) eligible for overtime for all hours worked in excess of 40 hours, exclusive of unpaid lunch periods.

b. Employees who work at least sixteen (16) hours a week shall be entitled to accrue sick leave and annual leave on a pro-rata basis.

c. All employees shall be granted a meal period of not less than one-half hour duration nor more than one hour duration during each work day according to the work day schedule that applies.

d. Employees shall be granted a fifteen (15) minute coffee break during the first half and second half of their work day.

e. Employees who are required to report for emergency work after having left their place of employment and outside their regularly scheduled work hours shall receive not less than four (4) hours pay at their overtime rate. If the employee has the option of reporting to work and is informed previously that the shift duration is less than four (4) hours, payment will be made only for hours actually worked.

### **Section 8.02 Attendance**

a. No employee shall be paid unless s(he) is at work, or in accordance with the conditions outlined in these rules, is authorized to be absent. An employee shall notify his/her immediate supervisor, whenever possible, of his/her failure to report for work and the reason for such absence. Continued failure by an employee to conform to the requirements of attendance (such as unauthorized absence or chronic tardiness) may subject the employee to disciplinary action.

b. Each court shall submit attendance reports to the Employee Relations Office as specified by the State Court Administrator. These attendance reports shall not apply to employees whose positions are in the non-standard categories, however, absences due to sick leave, annual leave, or other categories of paid and unpaid leave shall be reported.

### **Section 8.03 Overtime**

a. When it becomes necessary for the efficient conduct of the business of the Judiciary, an Appointing Authority may direct or authorize overtime work. Overtime work is defined as the required performance of work in excess of the established workweek for which the employees hourly rate plus ½ the hourly rate (“time and one-half”) shall be paid.

b. Compensation for overtime work shall not be paid to employees in the non-standard category (management is exempt).

### **Section 8.04 Holidays**

a. The official holidays for state employees and judicial officers are:

- New Year’s Day (1<sup>st</sup> day, January, except when it falls on a Saturday or Sunday, then the following Monday)

- Dr. Martin Luther King Jr.'s Birthday (3<sup>rd</sup> Monday, January)
- Memorial Day (Last Monday, May)
- Independence Day, (July 4<sup>th</sup>)
- Victory Day (2<sup>nd</sup> Monday, August)
- Labor Day (1<sup>st</sup> Monday, September)
- Columbus Day (2<sup>nd</sup> Monday, October)
- Election Day (General Elections)
- Veterans Day (November 11<sup>th</sup>)
- Thanksgiving Day (4<sup>th</sup> Thursday, November)
- Christmas Day (December 25<sup>th</sup>, except when it falls on a Saturday or Sunday, then the following Monday)
- Any day that the Governor or General Assembly shall designate as a holiday.

b. An employee shall be entitled to time off with pay for the official holidays specified above, when such holiday falls on his/her regularly scheduled work day(s) and shall be credited with the number of hours in his/her official work schedule for that day.

c. When a holiday falls on an employee's regularly scheduled day off, (s)he shall be credited with the number of hours for one day in his/her official work schedule. The hours so credited for this day shall not be used in the computation of overtime.

d. Whenever an employee is required to work on a holiday which falls on his/her regularly scheduled work day, (s)he shall be credited with the number of hours in his/her official work schedule for the day plus the number of hours actually worked. The hours actually worked shall be compensated at the rate of time and one half.

e. Whenever an employee is required to work on a holiday which falls on one of his/her scheduled days off, (s)he shall be credited with the number of hours for one day in his/her official work schedule plus the number of hours actually worked. The hours actually worked shall be compensated at the rate of time and one half.

f. When a non-standard or non-standard non-exempt employee is directed to work on a holiday, (s)he shall be compensated for an additional seven (7) hours at his/her hourly rate.

g. When a holiday falls on a regularly scheduled workday within an employee's vacation period, the employee shall not be charged annual leave for his/her absence on that date.

### **Section 8.05 Inclement Weather/Emergency Time Off**

a. In the event that the Governor or the Governor's designee declares a state of emergency that state offices are closed, Judiciary employees will be allowed to discharge vacation leave, personal leave, or sick leave (two (2) days per calendar year). The following provisions shall apply:

- 1.) Employees who are either allowed to leave their work place early or are excused from traveling to work shall be allowed to discharge vacation

leave, personal leave, or leave without pay at the employee's option. Any request to discharge sick leave at such times must be considered in accordance with the pertinent provisions of applicable union contracts, rules, and state law. Appointing Authorities shall exercise prudence in authorizing such requests.

- 2.) Employees who are required to remain at their place of work or to travel to work shall be compensated at the rate of time and one half for each hour worked during the state of emergency.

b. Whenever court sessions for the public are canceled due to inclement weather, all staff members, including judicial officers, are required to report to work. Any employee who is unable to report to work or is unable to complete a work schedule, the absence must be recorded as either vacation leave, personal leave, or leave without pay at the employee's option.

- 1.) Under no conditions are employees to be released from work without the express approval of the Chief Justice, State Court Administrator or his or her designee, including early closings, late openings, or other shutdowns of Judiciary operations.

#### **Section 8.06 Vacation Leave**

Every employee shall be entitled to at least two successive weeks of vacation during each accrual year of service.

a. Requirements

- 1.) All requested employee vacation leave is subject to the approval of the employee's Supervisor, Appointing Authority or his or her designee. Appointing Authorities or Supervisors shall require employees to plan their vacations ahead of time. Criteria for determining priorities in scheduling includes seniority, rank in the organization, and needs of the department.
- 2.) To the greatest extent possible, Appointing Authorities/Supervisors shall assign vacation leave fairly and equitably. Dependent on department needs, the Appointing Authority/Supervisor may require employees to stagger vacations or split their leave periods. Should a question arise between employees as to when vacation will be taken, Supervisors shall attempt to resolve the matter between the parties. Absent resolution between the parties, preference will be given to the party who received first approval, then to state seniority.

b. Vacation accrual

- 1.) Vacation credits shall be discharged during the year accrued, except that:

i.) All employees, who accrue annual leave, shall be allowed to carry over from one calendar year to another not more than the amount of vacation time accrued and credited in two (2) calendar years unless otherwise modified by the Judicial Employee Relations Office or union contract.

2.) Vacation leave credits shall not accrue while an employee is on leave without pay or absent without permission.

3.) Absences with pay for illness; vacation; administrative; military or jury duty leaves do not affect vacation accrual. (See Accrual Rate Chart).

c. Accrual Rate Chart

Employees shall accrue vacation leave according to the following schedule:

Years of Service		Accrual Rate	Up Front Days	Days Subject To Accrual	Total Potential* Vacation Days
0-5		.0308	2	8	10
5-10	(completed 5 years)	.0500	2	13	15
10-15	(completed 10 years)	.0538	4	14	18
15-20	(completed 15 years)	.0615	4	16	20
20-25	(completed 20 years)	.0654	9	17	26
Over 25	(completed 25 years )	.0731	9	19	28

**\* Total Hours Accrual Per Year**

Accrual Rate	35 Hrs.	37 ½ Hrs.	40 Hrs.
.0308	70.0	75.0	80.0
.0500	105.0	112.5	120.0
.0538	126.0	135.0	144.0
.0615	140.0	150.0	160.0
.0654	182.0	195.0	208.0
.0731	196.0	210.0	224.0

1.) The end of the calendar year shall be considered the last day of the last bi-weekly pay period in the year for purposes of leave accrual.

2.) When the services of an employee are terminated by resignation, death, dismissal or otherwise, and the employee has not discharged vacation time equal to his/her outstanding vacation credits, the employee or his/her estate shall be entitled to receive full pay for each hour of vacation leave to his/her credit as of the date of termination. Other than for normal vacation leave that is discharged, no financial compensation shall be paid for vacation leave that had been accrued but not used during a preceding year as set forth in the “Accrual Rate Chart” below:

		Vacation Current	Vacation Frozen	Sick Leave	
	P2				
	P				
	C				
Vacation (Current)		This refers to all vacation credits carried over (except frozen) which you may discharge			
Vacation (Frozen)		This is the remainder of your vacation credits automatically carried forward until exhausted.			
Vacation Leave Definitions:	P2	These are the vacation leave balances to employee's credit at the beginning of the accrual year.			
	P	This is the balance of vacation leave in excess of an employee's one year maximum carryover and will be discharged in the current year if there is a balance. (There are NO FINANCIAL PAYOUTS from P)			
	C	This is the balance of vacation leave accrued and discharged during the current accrual year including up front days effective the first day of the accrual year. These vacation hours will begin to discharge after all discharges are made from the "P" category, (if any).			

d. Vacation Credit

- 1.) The Appointing Authority may in any year assign to any employee sufficient vacation time, in excess of actual accrual credits, to permit the employee to receive the maximum number of days to which (s)he is entitled in the accrual year, which excess shall be deducted from vacation leave subsequently earned during that year.
- 2.) An employee who is transferred or otherwise changes positions shall have his/her sick and vacation leave credits carried over from one position to the other. An employee who moves to or from the classified, non classified or unclassified shall retain all sick and vacation leave balances to his/her credit at the time of such personnel action.
- 3.) Employees who terminate from state service in good standing shall receive vacation leave credit through the last complete day of service. Employees who are entitled to discharge accrued vacation leave may discharge in one week no more than the number of hours assigned to their class of position.
- 4.) Appointing Authorities or Supervisors shall file with the Judicial Employee Relations Office a record of all approved requests for vacation leave for employees who accrue such time.
- 5.) Records of the Judicial Employee Relations Office shall be the official state records of vacation leave accruals and discharges for judicial employees.

e. Judicial officers shall direct requests for vacation leave to the Chief Judge or Presiding Justice of his or her respective Court for approval.

## Section 8.07 Sick Leave

a. Sick leave is defined as a necessary absence from duty due to illness, injury, or exposure to contagious disease and may include absence due to illness or death in the immediate family of the employee or necessary attendance upon a member of the immediate family who is ill.

b. Sick leave with pay shall be granted to all employees who hold full-time positions of thirty-five (35) hours or more per week or who hold part-time positions of at least sixteen (16) hours per week. Failure on the part of an employee to notify his/her immediate supervisor promptly of his/her absence due to sickness may be cause for denial of sick leave or other disciplinary action.

- 1.) For any absence of more than three (3) consecutive working days, the Appointing Authority shall require a physician's certificate or other satisfactory evidence for each day of sick leave with pay.
- 2.) For absence of less than three (3) consecutive working days, the Appointing Authority may require a physician's certificate or other satisfactory evidence for each day of sick leave with pay.

c. Unless modified by a union contract, all full-time employees whether on standard thirty-five (35) or forty (40) hour work week or on a non-standard workweek, and all part-time employees who work at least sixteen (16) hours per week shall accrue .0577 hours of sick leave for each hour of service during a biweekly pay period, up to a maximum of the assigned hours in the workweek for the position in which the employee is working.

d. When an employee's total accumulation of sick leave hours shall equal the equivalent of one hundred twenty-five (125) days (a day meaning the number of hours in an employee's regular workday) no further credit shall accrue until the total shall have been reduced to less than this maximum.

e. Sick leave with pay for the purpose of attendance on an immediate family member who is ill, is to be used only in emergency and is limited to ten (10) working days within any calendar year. Sick leave with pay may also be granted from accrued sick leave credits, when absence is medically necessary during normal pregnancy or the conditions of childbirth. Under the terms of the Family Medical Leave Act (FMLA), leave without pay is available under circumstances set forth in that act.

f. Sick leave allowable for death in the immediate family shall be restricted to the following: wife, husband, child (including foster child), mother, father, brother, sister, mother-in-law, father-in-law, grandmother, grandfather, grandchild, or any other family relative residing in the employee's household. The term "immediate family" also includes domestic partners of the same or opposite sex who have lived in the same household for at least one (1) year and have made a commitment to continue to live as a family. (For the definition of "domestic partner" See R.I.G.L. § 36-12-1 (3)).

g. Sick leave credits shall not accrue while an employee is on leave without pay or absent without permission. Employees who are authorized to discharge accrued sick leave, may discharge such leave on any regularly assigned work day, up to a maximum of the assigned hours in their workweek. Sick leave with pay may be granted in advance of accrual, but not in excess of eighty (80) hours, when approved by the Appointing Authority. Sick leave with pay in an amount over eighty (80) hours (seventy (70) hours for thirty-five (35) hrs/week employee) may be loaned to an employee in advance of accrual upon request to the Appointing Authority, provided that all sick and annual leave credits have been exhausted and the employee agrees that future accruals of sick leave shall be applied against such advance until the loan is repaid. Upon termination of an employee's service, any such advance of sick leave not offset by subsequent accumulations of sick leave shall be deducted from any balance of vacation credits due him/her. In the event no balance of leave credit exists for the employee, the Judicial Employee Relations Office will take all actions necessary to secure repayment included but not limited to seeking repayment from the employee's retirement contribution. Exceptions to or modification of this rule may be made upon written request by the Appointing Authority and approval of the State Court Administrator. Such request shall include a full explanation of the circumstances upon which the request is based.

h. When the service of an employee shall end by termination, by retirement (mandatory, voluntary or involuntary), or death, the employee or his/her estate shall be entitled to receive pay for each hour of accrued sick leave to his/her credit as of the date of termination according to the following formula:

- 1.) A thirty-five (35) hour/week employee or a non-standard employee shall be entitled to receive full pay for fifty percent (50%) of all accrued sick leave over 390 hours up to and including 630 hours and full pay for seventy five percent (75%) of all accrued hours over 630 hours up to and including 875 hours.
- 2.) A forty (40)-hour/week employee shall be entitled to receive full pay for fifty percent (50%) of all accrued sick leave over 468 hours up to and including 720 hours and full pay for seventy five percent (75%) of all accrued hours over 720 and up to and including 1000 hours.
- 3.) Eligible part-time employees shall be entitled to receive pay for accrued sick leave on a pro-rata basis depending upon the scheduled workweek within the basic workweek for the class of position

i. Special Sick Leave

- 1.) Whenever an employee shall be absent from his/her duties and is awaiting workers' compensation benefits, he or she shall be granted sick leave in an amount not to exceed his or her regular compensation.

- 2.) Whenever an employee shall be absent from his or her duties and is receiving compensation as provided by the workers' compensation laws, he or she shall be granted sick leave so that the total of his or her compensation as provided in the workers' compensation laws and his or her deductions from sick leave shall not exceed eighty three and three tenths percent (83.3%) of his/her regular compensation. Deductions from accumulated credits shall be applied only to that part of his or her salary, which is paid as an addition to workers' compensation payments. Annual leave credits may be applied in the same manner. When such absence shall not be covered by sick leave or annual leave, it shall be deemed to be leave without pay. (*See* R.I.G.L. § 36-4-64).

j. Sick Leave Bank

- 1.) A "sick leave bank" is a program established to allow a participating employee to pledge unused sick time. Pledged sick time may be used by the employee or other participant(s) who apply for additional sick time due to a catastrophic illness or injury. Sick leave banks shall be administered by a Sick Leave Bank Committee.
- 2.) Sick leave banks may be utilized, when authorized by union collective bargaining agreements or non-union groups as approved by the Appointing Authority and the State Court Administrator, to provide their members with extended paid leave after all available accrued and accumulated leave, including vacation and personal leave, is discharged.
  - i. Sick Leave Bank Committees shall be composed of equal members appointed by the Union and the Court Administrator.
  - ii. The Sick Leave Bank Committee shall establish the rules and procedures governing the pledges and applications to and use of the Sick Leave Bank.
  - iii. A Sick Leave Bank Committee may decide, by majority vote, to permit sick leave bank pledges to be made on an as needed basis.
  - iv. Decisions of the Sick Leave Bank Committee to grant sick leave bank time shall be by majority vote.
  - v. Any unused pledged sick leave remaining in the Sick Leave Bank on December 31st of each year shall not be carried forward into the next year.
  - vi. If during the calendar year the Sick Leave Bank falls below three hundred fifty (350) hours, the Sick Leave Bank Committee may solicit additional contributions of one additional day (8 hours or 7

hours) from those employees who made a contribution on January 2<sup>nd</sup> of that calendar year.

k. Judicial officers shall direct requests for sick leave to the Chief Judge or Presiding Justice of his or her respective Court for approval.

### **Section 8.08 Non-chargeable Absences**

a. Bereavement Leave

In the event of death in an employee's immediate family, the employee shall be entitled to absence with full pay per death, not chargeable to the employee's sick leave balance for;

- 1.) Four (4) days in the case of the death of a spouse (including domestic partner), child (including foster child or stepchild who resides with the employee), mother, father, brother or sister; or
- 2.) Three (3) days in the case of a mother-in-law, father-in-law, grandmother, grandfather, grandchild, or any other relative living in the employee's household; or
- 3.) One (1) day in the case of the death of an aunt, uncle, sister-in-law or brother-in-law.

If more than the above days of bereavement leave are needed, such additional time must be charged to annual or personal leave. Sick leave requests shall be in accordance with these Rules and Regulations.

b. Personal Leave

Each employee shall be entitled to four days of leave with pay for personal business and/or religious observance in every calendar year. Employees shall not be required to state the reason for personal leave but they must obtain prior approval. Personal leave shall not be carried over from one year to the next, nor shall an employee be compensated for unexpended time upon termination. Employees who are hired during the leave year will have their personal days prorated on the basis of one day for each three months or part thereof of service during the year.

### **Section 8.09 Administrative Leave (Special Time Off)**

a. Authorization:

The Appointing Authority, upon recommendation of the respective Court Administrator or his or her designee, may authorize Administrative Leave.

- 1.) Administrative leave with pay may be granted for absence from duty:
  - i. Necessitated by internal investigations and/or hearings regarding alleged charges of malfeasance or misfeasance or dereliction of

duty by a state employee; conduct or activity which would interfere with an employee's ability to perform his/her duties; or conduct which would embarrass or bring discredit to either the employee or the State; or

- ii. To take civil service examinations administered by the Office of Personnel Administration; or
- iii. To be interviewed for another position within state service; or
- iv. To attend professional conferences, training sessions, officially sanctioned outings or work related business provided that in the opinion of the Appointing Authority it promotes the career interest of the employee in relation to state business and that the staffing requirements are adequately maintained during said period. Further, the Appointing Authority should be guided by union contracts, the principles of affirmative action and employee wellness in making decisions regarding administrative leave; or
- v. To take a physical examination required for appointment to state service, or physical exams related to work injury in state service; or
- vi. In the event of extreme heat, inoperable heat or air conditioning, or other emergency conditions. Under no conditions are employees to be released from work without the express approval of the State Court Administrator or his or her designee. This applies to, but is not limited to, early closings, late openings, or other shutdowns of agency operations.

2.) Approval for Ten (10) Working Days

Whenever it appears to be in the best interest of the State, an Appointing Authority may, with the approval in advance by the State Court Administrator, place an employee on paid Administrative Leave for a period of not more than one (1) pay period (ten (10) working days) in a calendar year.

Administrative Leave is not mandatory and does not preclude the imposition of Leave Without Pay in such cases where it is in the best interest of the State.

3.) Extension(s) beyond Ten (10) Working Days:

Upon the approval of the State Court Administrator, the period of Administrative Leave may be extended beyond any leave already granted if it is in the best interest of the State to grant such extension.

b. Expiration of Administrative Leave

Upon the expiration of Administrative Leave, an employee must be returned to duty or placed on leave without pay.

### **Section 8.10 Military Leave**

a. Every employee holding a position in the Judiciary, who has separated from his or her position, deployed or shall be deployed by reason of entering the armed forces of the United States (whether through membership in the Reserve of the United States Military or Naval Forces or the Rhode Island National Guard or Naval Reserve, when any of the foregoing units are called to active federal duty or by reason of enlistment, induction, commission or otherwise) and who has held a position for 180 or more calendar days within the twelve (12) months next preceding such entrance into the armed forces is entitled to and shall be granted military leave of absence from said position. Military leave shall commence with the time of separation from said position for deployment and continuing throughout the duration of the absence required by his or her service in the armed forces. Such leave of absence shall be deemed to have expired six months after the date of discharge from or authorized separation from active duty as a member of the armed forces. Voluntary reenlistment or other voluntary continued service in the armed forces by the employee shall serve to cancel such leave.

#### **b. Payment of Benefits**

- 1.) For those employees hired prior to July 1, 1986, for the first sixty (60) calendar days of such absence, the employee shall be paid the same amount as (s)he would have received had (s)he not been absent from his/her position.
- 2.) For those employees hired after July 1, 1986, for the first sixty (60) calendar days of such absence the employee shall receive the difference between his/her salary and his/her military base pay.
- 3.) Employees who would otherwise qualify for military leave in accordance with subsection (a) who are called up to military duty in defense of our national and mobilized in excess of sixty (60) days shall be paid the difference between the employee's state salary and military base pay for as long as the employee remains deployed on active duty. Voluntary reenlistment or other voluntary continued service in the armed forces by the employee shall serve to cancel such leave.
- 4.) In no case shall such employee receive more than the amount the employee would have received had the employee not been absent from his/her position. No employee shall be allowed to receive such pay more than once in a three (3) year period.

c. While on military leave the employee shall also accrue sick leave and annual leave credits as (s)he would have accrued while working in said position during such period of sixty (60) days.

d. Employees on military leave shall be granted yearly salary increases and longevity increases when due in accordance with the conditions of eligibility outlined in these regulations.

e. At the conclusion of such military leave of absence, the employee shall be returned to his/her position subject, however, to any law or rule, which may hereafter, be enacted affecting such right of return or defining the conditions under which such returns may be made. At the conclusion of each calendar year during such absence, annual leave and sick leave accumulations shall be carried over to the credit of the employee.

### **Section 8.11 Military Training Leave**

a. Employees in the Judiciary who by reason of membership in the United States Military, Naval, or Air Reserve or the Rhode Island National Guard or Naval Reserve, are required to participate in training activities or in active duty as a part of the State military force or special duty as a part of the federal military force, shall be granted military training leave with pay not to exceed fifteen working days in any one federal fiscal year beginning October 1 through September 30. Should the employee be required to participate in such training activities for a period greater than fifteen working days, (s)he shall be granted leave without pay for this purpose.

b. During the period of military training leave with pay, the employee shall accrue sick and vacation leave credits.

c. Training activities shall not include weekly drill nights or similar drill periods lasting less than one day or training periods voluntarily engaged in by the employee beyond the training period required generally of the members of the respective armed service.

### **Section 8.12 Jury Leave**

a. An employee in the Judiciary who is ordered to report for jury duty shall be granted a leave of absence from his/her regular duties during the actual period of such jury duty. For state jury duty the employee shall waive juror compensation.

### **Section 8.13 Leave Without Pay**

a. A Judicial employee may be placed on leave without pay for a period not to exceed one (1) year when:

- 1.) The employee signs a request for such leave and the State Court Administrator approves the request with the written recommendation of the Appointing Authority or Supervisor.
- 2.) The Appointing Authority recommends such leave in writing to the State Court Administrator together with reason(s) for such proposed action.

- 3.) The employee signs a request for parental leave. Said leave shall be available to all employees for the purpose of child-raising upon written notice at least two (2) weeks in advance of the commencement of the leave period. Parental leave shall be granted for a period of up to six (6) months and may be renewed for a period not to exceed six (6) months upon request of the employee at least thirty (30) days prior to expiration.
  - i. In no event shall parental leave exceed a period of one (1) year or be applicable to children over the age of eighteen (18) years excepting under extenuating circumstances. The Appointing Authority and the State Court Administrator shall have the discretion to grant parental leave. An employee on parental leave shall be covered by the health benefits carried by the State of Rhode Island for a period not to exceed one (1) year, provided he or she continues to pay the applicable cost-share contribution. In cases where both parents are state employees, only one parent may request parental leave.
- 4.) Employees will not be granted a leave to accept employment outside of state service.

b. Upon the expiration of such leave of absence, the employee shall be returned to the position which (s)he occupied at the time the leave became effective in accordance with statute and the within Rules and Regulations. Failure of an employee to report for duty promptly at the expiration of such leave shall be just cause for dismissal or other discipline. The State Court Administrator may approve extensions of leave without pay for the same individual upon request by the Appointing Authority.

c. After an employee returns to his/her position after having been absent from his/her position on "leave without pay", the Appointing Authority may recommend salary or longevity increases which would place the employee in the position in the pay plan range to which (s)he might have been entitled if (s)he had not been absent from his/her position. If such leave is for a period of more than six (6) months, the reason for such a request must contain a full explanation and approval of such request must be obtained from the State Court Administrator.

d. Whenever a judicial officer shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

#### **Section 8.14 Municipal Vacation Leave**

a. A qualifying employee, who was either employed by or who held elected office in a municipality of the State of Rhode Island, shall not have municipal service time credited for the purpose of calculating accrued vacation leave credits. Employees who had either been employed by a State of Rhode Island municipality or who had held elective office in a State of Rhode Island municipality, and who now are accruing vacation leave credits as a state employee, shall

receive credit for their municipal service time, but only for the purpose of calculating the twenty (20) years necessary to receive the additional five (5) days of vacation leave allowable pursuant to R.I.G.L. § 36-6-18 (b) and/or (c). In no case shall any employee receive more than twenty-eight (28) vacation leave days in any calendar year. The five (5) days of vacation leave granted pursuant to R.I.G.L. § 36-6-18 (b) and/or (c), for prior municipal service time or service as an elected official with a State of Rhode Island municipality shall be credited on a prospective basis the first pay period following formal application by the employee. There shall be no retroactive credit or compensation of any kind.

**Section 8.15 Benefits**

a. Health Benefits. Employees who have been involuntarily laid off will be covered by the health benefits offered by the State of Rhode Island for the period of up to ninety (90) days.

1.) Benefits Upon Retirement of Judicial Employees

Retired judicial employees (other than judicial officers), shall receive health benefits as provided by the State Employees Retirement System.

2.) Benefits Upon Retirement of Judicial Officers

Upon retirement, judicial officers (judges and magistrates) shall be given the option to continue individual health care benefit coverage that they received prior to retirement and shall contribute, from their retirement allowance, a cost-share as follows:

AGE AT RETIREMENT	YEARS OF SERVICE	RETIREE SHARE
Under 65	20 or more	50%
65+	10 or more	50%

Retired judicial officers retain the option to elect at age sixty-five (65), a Medigap (Plan 65) or a Medicare Complete Plan which would provide coverage in conjunction with the Social Security Medicare Program, **provided that the cost share calculation would remain a percentage of the current cost of the plan selected.** Additional riders for dental and vision coverage are available at active employee group rates with no state share contribution toward their cost.

All other retiree health benefits currently afforded to retired judicial officers, including spousal coverage and surviving spousal coverage at **full cost** of the current group rate shall be preserved.

Judicial officers who elect to waive health care benefits at retirement will receive no compensation for such benefit waiver; however, they may elect to

resume coverage in a selected plan currently available without respect to Open Enrollment provisions or pre-existing medical conditions.

### **Section 8.16 Layoffs**

a. The State Court Administrator may initiate layoffs. Employees who are to be laid off shall be notified in writing prior to the separation date. At the time of layoff, annual leave balances will be paid to the employee. Sick Leave balances will be held until the employee is called back to work providing it is within thirty-six (36) months of the layoff.

### **Section 8.17 Physical Examinations**

a. The Judiciary's Personnel Administrator may require persons employed in certain class of positions to be examined by a physician and present certification that they are capable of performing the duties required and that their employment in such position will not be harmful to themselves, the State, or its employees or other persons.

#### **1.) Pre-Employment Examination**

The Judiciary shall not require a medical examination or make any inquiry regarding a job applicant's disability until a job offer had been made, but may inquire as to the applicant's ability to perform job-related functions with or without reasonable accommodation.

#### **2.) Employment Entrance Examinations**

After a job offer has been made to an applicant, but before the applicant's job duties begin, the Judiciary may require a job applicant to submit to a medical examination and/or respond to inquiries and may condition employment on the result of such examination and/or inquiries, as long as all entering employees in the same job category are subject to an examination and/or inquiries regardless of disability and all confidential requirements are met.

### **Section 8.18 Policy Governing Employee Conduct**

a. At all times, Judiciary employees, including judicial officers, are expected to uphold and abide by the laws of the United States and the State of Rhode Island and all local ordinances. All Judiciary employees must follow the *Rhode Island Judiciary Employee Handbook*, the Rhode Island Code of Ethics as set forth in Title 36, Chapter 14 of the Rhode Island General Laws, the Code of Judicial Conduct where applicable, and any departmental policies, rules, objectives, and orders.

b. Employees shall not knowingly engage in actions, conduct or associations, either on or off-duty, which compromise the authority of the employee or other employees, or which bring discredit or dishonor on the Judiciary or which undermine its goals and objectives in any

way. Should an employee have a question about his or her conduct or the conduct of others, the employee shall consult with his or her Supervisor or Appointing Authority.

c. Employees shall treat members of the public with courtesy, dignity, and respect at all times. When called upon, employees are expected to assist members of the public, and to answer questions promptly, accurately, and courteously. In the event that an employee cannot easily obtain the information requested, the staff member shall, whenever possible, explain to the individual how to contact the appropriate source of information.

d. Employees shall immediately report any information received, either on or off duty, which may have an impact on the safety or security of the Judiciary, its employees or members of the public.

e. Employees are responsible to submit full, accurate, and timely reports to their Appointing Authorities or Supervisors concerning any criminal conduct that they observe and which relates in any manner to their employment, job duties or job responsibilities. This Rule shall not be construed as relieving employees of their obligation to provide any other reports as required by law.

f. Specific instances of misconduct which may subject an employee to disciplinary measures, up to and including termination, include but are not limited to: criminal, conduct unbecoming a state employee or judicial employee (in or outside of the workplace); tardiness, absenteeism, or abuse of leave time; dereliction of duty; insubordination; harassment; dishonesty; substance abuse; or misuse of state property. Individuals who engage in violence, harassment, intimidation or other disruptive or unlawful behavior will be reprimanded immediately and/or removed from the workplace and may be subject to disciplinary action and/or criminal penalties. Nothing in this section precludes the Judiciary from taking the full range of disciplinary measures against an employee who violates the other sections of this policy.

As a requirement for continued service within the judicial system, an employee may be asked to produce a criminal history record, and/or report any arrests. An employee should notify his/her supervisor immediately if charged with any criminal violations during his or her service with the Judiciary. Failure to notify a supervisor of the criminal charge may result in discipline or termination. Circumstances surrounding an arrest or conviction may lead to transfer or discipline, including immediate suspension or termination.

g. It is critical to maintain the confidence and integrity of the Rhode Island Judiciary and to remain mindful of the doctrine of the separation of powers. Judicial employees, particularly those who are involved in the deliberative and adjudicative process, shall be politically neutral, and free from any political or partisan interests that could influence their conduct. As a result, the following judicial employees are prohibited from seeking or holding elected office:

- Clerks of court (not including deputy or assistant clerks)
- Chambers' law clerks

- Law Clerk Department clerks
- Court Administrators (not including deputy or assistant administrators), and
- Appellate Screening Unit employees

Any above employee who was elected to office as of January 1, 2007 shall be permitted to retain his or her office until the expiration of the present term, but shall not be permitted to seek re-election. In addition, no Judiciary employee shall engage in any partisan political activities (other than voting) during work hours or on Judiciary property, and shall not use any Judiciary property or equipment for political purposes. No Judiciary employee shall solicit judges or other judicial staff to attend any fundraisers or otherwise participate in any fundraising activities, nor shall they campaign in any way or solicit campaign contributions from other staff members. A Judiciary employee who is permitted to seek or hold elective office shall not disclose his/her position as a Judiciary employee in any of his/her campaign materials or activities.

Judiciary employees whose positions are funded by federal monies may also be subject to the prohibitions of the United States Hatch Act, 5 U.S.C. § 1501 et seq. Should you need additional explanation of what is considered permissible or impermissible political activity, please contact your immediate supervisor or the Employee Relations Office.

### **Section 8.19 Solicitation on State Premises**

No Judiciary employee shall conduct any solicitation or post any type of notice in or upon any court facility or on court premises except as permitted by department guidelines and/or with the express permission of the State Court Administrator.

### **Section 8.20 Discipline**

a. An Appointing Authority or Supervisor may impose discipline upon an employee for conduct including, but not limited to, any violation of these rules and regulations, a violation of the *Rhode Island Judiciary Employee Handbook*, a violation of the Rhode Island Code of Ethics, any departmental policies, rules, objectives, and orders, and/or conduct unbecoming an employee. Discipline may include verbal reprimand, written reprimand, a change in responsibilities, duties or assignments, suspension, demotion, and termination. *See Terms of Appointment, Section 6.05.*

### **Section 8.21 Demotions**

#### a. Involuntary Demotion

When the services of an employee are not satisfactory or when warranted as a disciplinary action, the Appointing Authority or the State Court Administrator may demote the employee to a position in a lower class and grade. The compensation in such lower class shall be determined by the provisions of Section 6.02.

#### b. Voluntary Demotion

An employee may be granted a demotion upon request, when recommended by his/her Appointing Authority or Supervisor and approved by the State Court Administrator. Such demotion shall be termed a voluntary demotion and shall not be deemed a disciplinary action.

### **Section 8.22 Resignations**

a. Resignation in Good Standing

An employee desiring to resign in good standing shall give his/her Appointing Authority or Supervisor notice of at least fourteen (14) calendar days prior to the intended separation date. Such resignation shall be submitted on the appropriate forms, signed by the employee and must be approved by the Appointing Authority or Supervisor.

b. Resignation Without Notice

Any employee who is absent from duty without authorized leave for five (5) consecutive working days, or who fails to resume his/her duties at the expiration of a leave of absence, shall be deemed to have resigned without notice. The Appointing Authority shall submit the appropriate Termination Action Form to the State Court Administrator for his/her approval. Such resignation shall not be in good standing unless otherwise requested by the Appointing Authority and approved by the State Court Administrator. In each instance of resignation without notice, a copy of such action shall be mailed by the Judicial Employee Relations Office to the last known address of the employee within five (5) days.

### **Section 8.23 New Hires and Transfers to Other Positions**

a. Application for State Employment

All individuals who seek employment within the Judiciary or who transfer to another position within the Judiciary or within state government are required to complete an Application for Employment, Affirmative Action File Card and other information as developed and/or deemed necessary by the State Court Administrator.

Said application shall be used in accordance with the law for administrative processing related to recruitment and placement and may include such information as an individual's name, address, social security number, education and work experience, criminal record, military record and any other information deemed pertinent by the State Court Administrator. Submission of incorrect or misleading information may constitute grounds for denial of employment.

b. Request for Bureau of Criminal Identification (BCI) Check

When an offer is extended for hire or transfer, an Appointing Authority shall request a BCI check. If an applicant has been convicted of a crime, the conviction may be grounds for refusal to hire. Inconsistent or falsified information supplied by the applicant may also be

deemed sufficient reason not to hire. Applicants who have been convicted of a crime may set forth any information or explanation that would mitigate the effect of such conviction.

c. Federal Immigration Reform and Control Act of 1986

P.L. No.99-603 provides that a prospective employer should hire only American citizens and aliens who are authorized to work in the United States. Pursuant to this Act and as part of the application process, applicants must submit all necessary information and documentation, as required.

d. Bar of Claims

An employee's claim for Workers' Compensation from an employer shall be barred from the date the employee commences employment for a period of two (2) years in the event said employee has willfully provided false information as to his or her ability to perform the essential functions of the job, with or without reasonable accommodation, on an employment application requesting that information, if the information is directly related to the personal injury which is the basis of the new claim for Workers' Compensation. (*See* R.I.G.L. § 28-35-57.1)

**Section 8.24 Exit Interview**

Whenever an employee is terminated, demoted, transferred, resigns or is otherwise permanently separated from his or her position, he or she shall be interviewed by his or her Supervisor or Appointing Authority, or their designee, and shall complete an Employee Exit Interview form for inclusion in the employee's personnel file. All Judiciary-issued items that were supplied to the employee during her or her service, including but not limited to office keys, building keys, file cabinet keys, desk keys, identification, parking passes, mobile phones, personal communication devices, laptops, vehicles, or other equipment, as well as all computer passwords, telephone passwords, and any other passwords or security codes shall be returned to the Supervisor or Appointing Authority or designee. Failure to return all equipment and access information within five (5) business days of the separation from his or her position may result in criminal prosecution or other sanctions.

**ARTICLE 9. STATE INCENTIVE (IN SERVICE TRAINING PROGRAM)**

Employees of the Judiciary shall be eligible for state incentive credit programs and provided in Title 36, Chapter 4 of the Rhode Island General Laws. Participation and application of credits shall be subject to the approval of the State Court Administrator or his or her designee.

The Department of Administration Office of Training and Development's powers and duties relating to incentive credit for judicial employees shall be purely ministerial and concerned only with the processing of the request and any applicable credit.

**Section 9.01 Curricula, Course Eligibility and Requirements**

a. Training courses must be in the areas of knowledge, skills, and abilities directly related to the employee's job classification and duties. Each course must be at least fifteen (15) hours in length to be eligible for one-half (½) incentive credit and at least twenty-four (24) hours in length to be eligible for one (1) incentive credit. Course length reflects the number of in-class hours, only. Each course must have an examination component and must denote the grading criteria.

b. The level of content for each course must be appropriate for the employee's job classification and duties. Only two (2) courses may be taken at the same time.

c. Employees who have not completed senior high school and who successfully complete a high school equivalency exam such as the General Educational Development Test (GED) while employed in judicial service shall be granted one (1) incentive credit after providing the Office of Training and Development (OTD) a copy of his or her successful GED.

### **Section 9.02 Ineligible Courses**

Ineligible courses include those that are required or are a condition of employment; conferences, seminars, workshops; institutions not recognized by the State Court Administrator; orientations or basic job training; correspondence courses; courses or similar courses previously taken; courses on new policies, programs, and procedures; courses taken before entering state service; law or social studies of a general nature such as American or European History, English Literature; foreign languages unless directly job related; refresher courses in any field; informal courses or discussion groups; cultural or avocational subjects; High School Equivalency preparation courses; review or continuing education courses for professional training; special institutes, lectures or meetings, government sponsored or not; or those not approved in advance by the State Court Administrator.

### **Section 9.03 Department Sponsored Courses**

a. Departments within the Judiciary may develop and administer courses offered to employees for incentive credit.

b. Department requests to conduct courses for incentive credit must be submitted to the Department of Administration Office of Training and Development (OTD) at least thirty (30) days in advance of the start date and must meet all criteria set forth in the OTD guidelines. Before judicial employees submit applications for credit, the department must have received approval from the OTD to conduct the course.

c. At the end of the course, the department must notify OTD in writing certifying that all requirements have been met by each employee whom the department determines has satisfactorily completed the course. The date that OTD receives the notification from the department will constitute the course completion date. A completion notice will then be sent to the Judicial Employee Relations Office. It is the employee's responsibility to ensure that (s)he has been properly credited for completing the course, or to determine how to attain a make-up, approved by OTD, if needed.

#### **Section 9.04 Incentive Credit Approvals**

a. All signed employee requests for incentive credit must be submitted to the Judiciary's Employee Relations Office at least twenty-one (21) days before the start date of the course for approval by the State Court Administrator, and subsequent transmittal to the State's Office of Training and Development (OTD), which maintains records of course work and applicable credit. OTD must receive the request at least seven (7) days in advance of the course start date.

b. If the Appointing Authority approves an employee's request for incentive credit, OTD will send the employee at the employee's home or work address a notice of approval. It is the employee's responsibility to check with OTD if an approval letter is not received.

c. If an employee is denied approval for incentive credit by his/her Appointing Authority, (s)he will receive a disapproval notice, and may request a review by the State Court Administrator or his or her designee within fourteen (14) days of the mailing of the disapproval notice. The request for review must include additional documentation, reasons, or arguments supporting the request.

d. It is the employee's responsibility to address and resolve any problems, differences, disagreements, make-up or paperwork requirements related to any course within one (1) year of the course start date.

#### **Section 9.05 Course Completions**

a. Once an approved incentive course is completed, the employee is responsible for submitting a grade/transcript to OTD. The date the grade/transcript is received by OTD represents the course completion date.

b. Incentive credit will only be granted if the employee satisfactorily completes the course. After each course is satisfactorily completed, notification will be sent by OTD to the Judicial Employee Relations Office.

#### **Section 9.06 Incentive Awards**

a. A one-step pay increment next above the current base step (or if the employee is at the maximum of the grade, an increment equal in amount to the last step in the pay grade) shall be given after the successful completion of a four-credit curriculum, to be effective the pay period after the issue date of a Certificate of Incentive Completion sent by OTD or by others. Said increment shall be retained, separate and apart from any salary or longevity increase that the employee may at that time or thereafter receive, unless otherwise provided in these Rules and Regulations. The Judicial Pay Plan shall be used to determine the nearest comparable salary grade and the increment shall be equivalent to the last step of that pay grade.

## **Section 9.07 Incentive Programs**

- a. Employees who were hired prior to July 1, 2001 are eligible to receive a one-step pay increment upon successful completion of a four-credit curriculum incentive in-service program.
- b. A state employee's eligibility for the one-step pay increase shall cease upon leaving state service, or upon choosing to participate in a revised educational incentive plan as provided within or upon choosing to participate in another recognized educational incentive plan.
- c. Unless otherwise provided in the general laws, employees hired on or after July 1, 2001 are only eligible to participate in the educational incentive program as provided for in the personnel rules, also referred to within as the "revised incentive program". However, employees who are eligible for a different statutory or contractual educational incentive plan may choose to participate in such other plan, instead of the revised incentive program as provided above.
- d. The revised incentive program plan consists of the following:
  - 1.) After an employee receives the fourth incentive credit, the employee will be eligible for a one-step pay increment as stated within and will retain that increment for a period of four (4) years, after which time it will no longer be paid.
  - 2.) For a period of three (3) years thereafter, the employee may not apply to take courses for incentive credit.
  - 3.) At the end of the three (3) year period, an employee may apply to take additional courses for incentive credit through the revised incentive program plan. Courses previously approved or similar courses that have been taken are ineligible as determined by the State Court Administrator.
  - 4.) Upon approval, upon completion of the revised program, and upon receiving the fourth incentive credit, the employee is again eligible to receive a one-step pay increment for a period of four (4) years.
  - 5.) For employees hired before July 1, 2001, a "Request to Change Incentive In-Service Programs" form may be obtained from OTD or from the employee's Judicial Employee Relations Office. This form must be completed and sent to OTD at least 30 days before the employee wishes to opt out of the original program and begin the new one. OTD will forward this form to the employee's Judicial Employee Relations Office and to the Office of Personnel Administration. A CS-3 form must be completed by the employee's Judicial Employee Relations Office, and will be forwarded to the Office of Personnel Administration. If the employee is receiving an incentive pay increment it must be terminated by the second pay period after OTD receives this notice and before new courses can be requested.

## **Section 9.08 Management Development Institute (MDI)**

a. The MDI Program is designed to assist supervisors and managers to acquire essential management skills and knowledge which will help them to be as effective, efficient, productive and successful as possible, in their service to the state and its citizens.

b. Training curricula and other growth opportunities will be approved by the State Court Administrator and should focus on strengthening organizational performance by improving the performance of public managers, encouraging the application of standard management procedures throughout state service, and fostering and maintaining high educational standards for continuing development of public managers.

c. No training program applied to the Management Development Institute requirement will be eligible for incentive credit.

## **ARTICLE 10. EMPLOYEE AWARDS PROGRAMS**

### **Section 10.01 Career Service Awards**

Upon the completion of ten (10) years of service with the State, the State Court Administrator may award to an employee, including judicial officers, a service award pen and certificate to that employee. For each five (5) year period of continuous service thereafter up to fifty (50) years, another award pen and certificate may also be issued.

## **ARTICLE 11. PERSONNEL DOCUMENTS**

### **Section 11.01 Gender Neutral Language**

Every effort will be made to write personnel related materials using gender neutral language. Wherever he/she is referred to in text, the format “(s)he” will be used when any document is reprinted, and the word “his” will be replaced by “his/her.” This rule shall extend to the Office of the State Court Administrator and the Administrative Offices of each State Court in the publishing of public documents and reports. (*See* R.I.G.L. § 43-3-3).

### **Section 11.02 Employee’s Personnel File**

a. Personnel files will be kept for each employee by the Judicial Employee Relations Office. The original of the official employee personnel file will follow the employee from the agency/department and a copy will be maintained by the sending agency/department. A separate employee medical file will be maintained by the employing agency.

b. Each employee will have the right, upon written request, to review the contents of his/her personnel file, as provided in R.I.G.L. § 28-6.4-1, as amended and the conditions contained within. No record, file or document pertaining to an employee will be made available to any unauthorized person(s) for inspection or photocopying unless otherwise provided by law.

c. Employees have the right to respond in writing to all additions to or deletions from his or her personnel file.

### **Section 11.03 Records Retention**

a. Personnel records shall be retained in accordance with the Judiciary's Records Retention Schedule.

## **ARTICLE 12. HEALTH AND SAFETY**

### **Section 12.01 Smoking in the Workplace**

a. Prohibition of Smoking

In accordance with state and federal law, smoking shall be prohibited in all judicial facilities and on judicial property including, but not limited to all rooms, chambers, places of meeting or public assembly, all common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities except as otherwise provided herein.

b. Outdoor Smoking Space

If the Judiciary provides an outdoor smoking space for its employees, any such areas must be physically separated from the workplace so as to prevent the migration of smoke into the workplace. Smoking is prohibited within 100 feet from courthouse entrances.

### **Section 12.02 Drug Free Workplace**

a. The Judiciary follows the State's Drug-Free Workplace Policy which is based upon the federal Drug-Free Workplace Act of 1988, 41 U.S.C. § 701 *et seq.* The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace. Any employee(s) violating this policy will be subject to discipline up to and including termination. An employee may also be discharged or otherwise disciplined for conviction involving illicit drug behavior, regardless of whether the employee's conduct was detected within employment hours or whether his/her actions were connected in any way with his or her employment. (*See* Personnel Form CS-378A)

b. Current Judiciary employees, new hires and transfers must receive a copy of the Judiciary's policy regarding the maintenance of a drug-free workplace. New hires must acknowledge receipt and acceptance of the policy by executing personnel form CS-387C.

c. Employees must report all drug convictions and dispositions, other than acquittal or dismissal, within five (5) days of any such conviction, including pleas of guilty or nolo

contendere by completing personnel form CS-387E and by submitting completed forms to their Appointing Authorities and Supervisor.

### **Section 12.03 Drug Testing**

a. Pre-Testing

The Judiciary may require a job applicant to submit for testing a sample of his or her blood, urine or other bodily fluid or tissue. *See* R.I.G.L. § 28-6.5-2. If the applicant is seeking employment as a law enforcement officer, or any other position where testing is required by federal law or required for the continued receipt of federal funds.

b. Testing as a Condition of Continued Employment

The Judiciary may, either orally or in writing, request, require, or subject any employee to submit a sample of his or her urine, blood, or other bodily fluid or tissue for testing as a condition of continued employment, provided that the test is administered in accordance with the provisions of R.I.G.L. § 28-6.5-1. The Judiciary may request that an employee submit to a drug test if the Judiciary has reasonable grounds to believe, based on specific aspects of the employee's job performance and specific contemporaneous observations capable of being articulated concerning the employee's appearance, behavior or speech, that the employee's use of controlled substances is impairing his or her ability to perform his or her job.

### **Section 12.04 Violence Prohibited in the Workplace**

a. In promoting a safe environment in the workplace, the Judiciary strives to maintain a work environment that is free from violence, threat of violence, harassment, intimidation, and other disruptive behavior (*See* R.I.G.L. § 28-52-2). Disruptive behavior includes oral or written threats, gestures or expressions that convey a direct or indirect threat of physical harm.

b. Individuals who engage in violence, harassment, intimidation or other disruptive behavior will be reprimanded immediately and/or removed from the workplace and may be subject to disciplinary action and/or criminal penalties.

### **Section 12.05 Sexual Harassment**

a. "Sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any other verbal or physical conduct of a sexual nature when:

- 1.) submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual's employment;  
or

- 2.) submission to or rejection of the conduct or advances or requests by an individual is used as the basis for employment decisions affecting the individual; or
  - 3.) the conduct or advances or requests have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. (*See R.I.G.L. § 28-51-1*).
- b. The Judiciary's policy against sexual harassment includes:
- 1.) A statement that sexual harassment in the workplace is unlawful;
  - 2.) A statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment;
  - 3.) A description and examples of sexual harassment;
  - 4.) A statement of the range of consequences for employees who are found to have committed sexual harassment;
  - 5.) A description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made.
- c. Consequences for employees who are found to have committed sexual harassment include, but are not limited to, disciplinary action up to and including termination.
- d. An employee wishing to file a charge of sexual harassment shall use the "Discrimination Grievance Procedure" established by the State Equal Opportunity Office at One Capitol Hill Providence, Rhode Island 02908 and addressed to the EOO Administrator, and shall inform his or her Supervisor or Appointing Authority in writing of the charge.
- e. The Appointing Authority or supervisor shall take all steps necessary to prevent sexual harassment in the workplace from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing the employees of their right to raise and how to raise the issue of harassment, and developing methods to sensitize all concerned.

### **Section 12.06 Employee Assistance Program (EAP)**

- a. The State of Rhode Island has a contract with an Employee Assistance Program (EAP) provider, which is an independent agency, created to provide assessment, referral and supportive services to help Judiciary employees or their family members resolve a full range of human problems including, but not restricted to alcoholism or drug dependency; emotional or

behavioral disorders; family or marital discord; financial or legal difficulties; and other related health or life issues. The Employee Assistance Program (EAP) provides an assessment of the employee, refers the employee to appropriate treatment, monitors treatment progress, and reports compliance with the treatment plan to appropriate management personnel.

b. The Employee Assistance Program is the primary provider of referral services and, as such, Appointing Authorities and Supervisors should to the extent possible make direct referral to this program.

c. A person's job security or future advancement opportunities will not be jeopardized as a result of participation in this Program. Diagnosis and treatment of employees will be held in strict confidence. Records relating to an employee's participation in the Employee Assistance Program will be maintained in a confidential manner in accordance with state and federal law and regulations and will not be released without the written consent of the employee. Notwithstanding, an employee's failure to complete the EAP, when ordered to do so, may be disclosed to the Appointing Authority, and may be grounds for discipline.

d. Employees or their family members are encouraged to utilize the services of the Employee Assistance Program on a self-referral basis.

e. When an employee's job performance is unsatisfactory and the employee's supervisor reasonably believes that the employee's performance is affected by personal or family problems, the Appointing Authority or Supervisor may refer the employee to the Employee Assistance Program as an alternative or in addition to disciplinary action.

f. While it is not the responsibility of the supervisor or Appointing Authority to speculate as to the cause of the performance decline or provide therapeutic interaction, it is the responsibility of the supervisor or Appointing Authority to document job performance and/or attendance problems, review these matters with the employee, and, if appropriate, offer a referral to the EAP as a possible alternative to disciplinary action.

g. Employees who participate in the EAP during regular work hours, must use sick, vacation, or personal time. If treatment is required, sick and/or personal time may be discharged on the same basis that is granted for other health problems.

h. When an employee participates in the Employee Assistance Program, the employee is still expected to fulfill all performance requirements.

i. There is customarily no charge to the employee or family member for the services performed by the Employee Assistance Program. However, if an individual employee's participation in the EAP program results in additional costs beyond that which is covered either by State and/or the appropriate health care benefits program, the individual employee is responsible to pay such additional costs.

### **ARTICLE 13. ANTI DISCRIMINATION**

### **Section 13.01 Discrimination Prohibited**

a. Determinations of eligibility for appointments, promotions, demotions and dismissals shall be based solely upon merit, regardless of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, country of ancestral origin, consistent with collective bargaining agreements, and consistent with Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (*See* R.I.G.L. Title 36, Chapter 4). The Judiciary shall not discriminate against a qualified individual by reason of such individual having filed a workers' compensation claim nor deny such individual a reasonable accommodation, if needed.

### **Section 13.02 Americans With Disabilities Act (ADA) Provisions**

a. Statement of Purpose

The Judiciary is committed to the fair and equal employment of persons with disabilities. It is the policy of the Judiciary to provide reasonable accommodations for qualified persons with disabilities who are applicants for employment or who are employees. The Judiciary will adhere to all applicable federal and state laws and regulations with respect to providing reasonable accommodations as required to afford equal opportunity to qualified persons with disabilities. Reasonable accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants, employees and employees seeking promotional opportunities. Reasonable accommodations shall be provided in a timely and cost-effective manner.

No otherwise qualified person with a disability shall, solely by reason of his or her disability, be subject to discrimination nor shall any otherwise qualified person with a disability be excluded from participation in or denied the benefits of any program, activity or service of the Judiciary. *See* R.I.G.L. Title 42, Chapter 87.

The Judiciary shall make a reasonable accommodation to the known disability of a qualified individual, upon request, unless the accommodation would impose an "undue hardship" to the Judiciary as defined by state or federal law.

- 1.) Undue Hardship --With respect to the provision of an accommodation, undue hardship is defined as significant difficulty or expense incurred by the Judiciary. The determination of an undue hardship is to be made by the Governor's Commission on Disabilities in cooperation with the Appointing Authority, the ADA (Disability) Coordinators, and/or Office of the State Court Administrator.
- 2.) In determining whether an accommodation would impose an undue hardship on the Judiciary, factors to be considered include:
  - i. The nature and cost of the accommodation needed;

- ii. The overall financial resources of the facility of the Judiciary involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;
- iii. The overall financial resources of the Judiciary, the overall size of the Judiciary with respect to the number of its employees, and the number, type, and location of its facilities;
- iv. The type of operation of the Judiciary, including the composition, structure, and functions of the workforce, and the geographic separateness and administrative or fiscal relationship of the facility in question to the Judiciary;
- v. The impact of the accommodation upon the operation of the facility and the Judiciary, including the impact on the ability of other employees to perform their duties and the impact on the facility's and Judiciary's ability to conduct business;
- vi. The requirements of a collective bargaining agreement, if applicable.

b. Requesting a Reasonable Accommodation

- 1.) For the interview and selection process, an applicant who requests a reasonable accommodation must contact the Appointing Authority, the Judicial Employee Relations Office, or the Judiciary's ADA (Disability) Coordinator and explain his/her need for an accommodation at least five (5) business days prior to the interview or other activity for which he/she would require the accommodation. The applicant must be informed whether a reasonable accommodation is available and, if not, what accommodation the agency can provide instead.
- 2.) Upon acceptance of a "conditional offer of employment" by the Judiciary, an applicant who requests an accommodation shall complete a "Reasonable Accommodation Request" form and return it to the Appointing Authority or the Judicial Employee Relations Office.
- 3.) Employees (including those collecting Workers' Compensation benefits) who believe that they need a reasonable accommodation should contact the Judiciary's Disability Coordinator or the Judicial Employee Relations Office and submit a completed "Reasonable Accommodation Request" form. (The "Reasonable Accommodation Request Form" may be the form provided by the RI Governor's Commission on Disabilities Form I1, or such other form as the Judiciary may supply.)

- c. Procedure for Determining Reasonable Accommodation
- 1.) The applicant or employee will make the accommodation request as noted above.
  - 2.) If a current employee, the employee shall inform his/her supervisor and the ADA Coordinator of the need.
  - 3.) The ADA Coordinator and the employee's supervisor (or applicant's prospective supervisor) shall meet with the applicant/employee, and review the particular job and essential job functions involved. The employee (or applicant) shall identify his/her specific abilities and limitations as they relate to the essential job functions, and identify barriers to job performance, and suggested accommodation to overcome such barriers.
  - 4.) In consultation with each other, the employee (applicant), supervisor and ADA Coordinator may discuss the requested accommodation and possible alternatives, considering the preference of the employee (applicant), and the needs of the Judiciary. If appropriate to seek technical assistance, the ADA Coordinator may do so from the Department of Human Services Office of Rehabilitative Services or other appropriate professionals or entities. If more than one accommodation would be effective, the Judiciary is free to choose among them.
  - 5.) If the accommodation is not provided or if the employee (applicant) is not agreeable to the alternative accommodation to his/her requested one, the employee (applicant) may appeal the decision through the RI Governor's Commission on Disabilities (RI GCD Form D 1), which includes the opportunity to mediate the dispute. The employee (applicant) may seek other avenues of redress as well.

## **ARTICLE 14. MISCELLANEOUS**

### **Section 14.01 Severability**

If any provision of these rules and regulations, or the application thereof, is held invalid by a court of competent jurisdiction, the validity of the remainder of these rules and regulations shall not be affected thereby.

## **ARTICLE 15. AMENDMENT AND SUSPENSION**

These rules and regulations, or any portion thereof, may be amended or rescinded by the State Court Administrator, with the approval of the Chief Justice, provided notice of the substance of the proposed amendment is submitted in writing.

The amendments, rescissions or suspension of rules shall become effective immediately upon filing with the Secretary of State in the same manner as the original rules.

Adopted on \_\_\_\_\_ by: \_\_\_\_\_  
 J. Joseph Baxter  
State Court Administrator

\_\_\_\_\_  
Frank J. Williams  
Chief Justice

\_\_\_\_\_  
Justice Maureen McKenna Goldberg

\_\_\_\_\_  
Justice Francis X. Flaherty

\_\_\_\_\_  
Justice Paul A. Suttell

\_\_\_\_\_  
Justice William P. Robinson, III

## APPENDIX