

# The Supreme Court of Ohio

## GUIDELINES FOR ASSIGNMENT OF JUDGES

The Ohio Constitution and the Revised Code vest the Chief Justice of the Supreme Court with the authority to make temporary assignments of judges to serve in any court in the state as established by law in whatever circumstances the Chief Justice deems appropriate.

These guidelines are issued by the Chief Justice and intended to establish consistent standards and procedures in implementing this authority. While these guidelines may impose specific duties upon other persons, the Chief Justice may waive compliance with any guidelines to assist the exercise of that discretion.

These guidelines have not been adopted as rules pursuant to Article IV, Section 5 of the Ohio Constitution and should not be construed as requiring adoption.

### SECTION 1.0. DEFINITIONS.

#### 1.1. Definitions.

Unless otherwise limited by the context, as used in these guidelines:

##### (A) Administrative judge

“Administrative judge” means the administrative judge of a court as defined in Rule 4 of the Rules of Superintendence for the Courts of Ohio.

##### (B) Assigned judge

“Assigned judge” means either of the following:

(1) Any sitting judge whom the Chief Justice assigns to serve temporarily on any court of the state other than the court on which the sitting judge serves;

(2) Any retired judge whom the Chief Justice assigns to serve temporarily on any court of the state.

##### (C) Chief Justice

“Chief Justice” includes a designee authorized by the Chief Justice.

**(D) Retired judge**

“Retired judge” means a person who left service on any court of the state either voluntarily by reason of resignation or retirement or involuntarily by reason of Article IV, Section 6(C) of the Ohio Constitution. “Retired judge” does not include a person who was removed or suspended without reinstatement from service on any court of the state pursuant to the Rules for the Government of the Judiciary or resigned or retired from service on any court of the state while a complaint was pending against the person under those rules.

**(E) Sitting judge**

“Sitting judge” means any person who currently holds office by reason of election or gubernatorial appointment.

**SECTION 2.0. REQUIREMENTS AND PROCEDURES.**

**2.1. Reasons for Assignment of Judges.**

The administrative judge of any court or division of a court may request the Chief Justice to temporarily assign a sitting or retired judge to hold court pursuant to these guidelines and for any of the following reasons:

**(A) Overburdened docket/extended trial**

The court or division that is in need of the assigned judge has an overburdened docket or anticipates an extended trial that will disrupt its docket.

**(B) Recusals for conflict of interest**

A sitting judge recuses from one or more specific cases because of a conflict of interest.

**(C) Illness, emergency, vacation, and continuing education**

A sitting judge will be temporarily absent for one or more of the following reasons:

- (1) Illness or inability to attend to judicial duties;
- (2) A personal or family emergency that interferes with the performance of judicial duties;
- (3) The taking of a reasonable vacation or attendance at a continuing legal education conference, seminar, or workshop, and

the sitting judge cannot reasonably schedule the judge's docket to eliminate the need for a replacement during the absence.

**(D) Extraordinary circumstance**

Any extraordinary circumstance approved by the Chief Justice.

**2.2. Type and Length of Assignment.**

**(A) Type of assignment**

The Chief Justice may temporarily assign a judge to one or more specific cases, for a specific period of time, or in a special circumstance, such as the convening or deliberation of a grand jury, appointment of a special prosecutor, or consideration of a particular type of docket.

**(B) Length of assignment**

The Chief Justice shall not ordinarily designate the same assigned judge for continued service in the same court or extend the length of the assignment beyond the original term without the agreement of the administrative judge of that court, except as noted in division (B) of Guideline 5.2.

The Chief Justice shall not ordinarily assign a sitting judge for a specific period of time exceeding six consecutive calendar months or a retired judge for a specific period of time exceeding three consecutive calendar months.

**2.3. Requirements Before Requesting Assignment.**

Before requesting the Chief Justice to assign a judge to a court, the administrative judge of that court shall proceed as follows:

**(A) Other judge of the court**

Attempt to arrange for another sitting judge of that court to perform the duties of the judge who is in need of a replacement. The administrative judge may cause the sitting judge who requests a replacement to satisfy this requirement.

**(B) Other judges of division in common pleas court**

Request the presiding judge of that court to assign a sitting judge from another division of that court to perform any unanticipated emergency duties of a temporarily absent judge if the temporarily absent judge has no hearings or trials scheduled for the time of that absence. The

administrative judge may cause the sitting judge who requests a replacement to satisfy this requirement.

**(C) Certification by administrative judge**

Certify to the Chief Justice the requirements of divisions (A) and (B) of this guideline have been satisfied.

**(D) Affidavits of disqualification**

If a judge of a multiple-judge division of a court of common pleas is disqualified pursuant to an affidavit of disqualification, assign another sitting judge as provided in sections 2101.39 and 2701.03 of the Revised Code. In other situations, including where all judges of a court or division are disqualified, the Chief Justice shall designate an assigned judge.

**2.4. Procedure for Requesting Assignment.**

The administrative judge shall make the request for an assigned judge on behalf of the court, division, or any of its judges. The request shall meet all of the following requirements:

**(A) Written request to Chief Justice**

Be written and addressed to the Chief Justice. If unexpected circumstances preclude a written request, the administrative judge may request an assigned judge by telephone or other means, provided the administrative judge promptly confirms the request in writing.

**(B) Statement of reason for request**

State the reason the court requires the assistance of an assigned judge, pursuant to Guideline 2.1. The Chief Justice may deny any request for an assigned judge that does not contain the reason for the request.

**(C) Type and length of assignment requested**

State whether the assignment should be for one or more specific cases, for a specific period of time, or for a special circumstance, pursuant to Guideline 2.2. If for a specific period of time, the request shall state the length of assignment requested.

**(D) Certification**

If the court is a multiple-judge or multiple-division court, certify compliance with Guideline 2.3.

## **2.5. Request for Specific Judge.**

The administrative judge may request the Chief Justice to assign a specific sitting or retired judge who has expressed a willingness to accept assignments. However, if the administrative judge has recused from a case, the administrative judge may not request a specific judge to be assigned to that case. The Chief Justice is not required to assign a specific judge requested by the administrative judge.

## **SECTION 3.0. FACTORS IN SELECTING JUDGES.**

### **3.1. General Factors in Selecting Judges for Assignment.**

In considering a request for assignment, the Chief Justice may consider the following factors regarding the sitting or retired judge to be assigned:

**(A) Status of docket**

The status of the docket of the judge to be assigned.

**(B) Competence**

The competence of the judge to be assigned for the prospective duties.

**(C) Experience**

The experience of the judge to be assigned serving on courts of the level requesting the assignment. The Chief Justice shall not ordinarily assign a sitting judge who has not completed at least one full year of judicial service as a judge on the level of court on which the judge currently serves.

**(D) Proximity**

The proximity of the judge to be assigned to the court making the request. Whenever feasible, an assigned judge from a nearby county should be designated in order to economize on travel time as well as to eliminate or minimize overnight expenses.

**(E) Infirmities**

The infirmities, if any, of the judge to be assigned.

### **3.2. Additional Factors in Selecting Retired Judges for Assignment.**

In addition to the general factors listed in Guideline 3.1, the following additional factors shall apply to the assignment of a retired judge:

**(A) Practice of law**

The Chief Justice shall assign a retired judge only if the judge is not engaged in the full-time or part-time practice of law in any state.

**(B) Elector of state**

The Chief Justice shall assign a retired judge only if the judge is an elector of the state.

**(C) Judicial education requirements**

The Chief Justice shall assign a retired judge only if the judge has completed and properly reported the judge's judicial education requirements pursuant to the Rules for the Government of the Judiciary.

**(D) Good standing with the Supreme Court**

The Chief Justice shall assign a retired judge only if the judge has paid all necessary attorney registration fees and otherwise is in good standing with the Supreme Court as determined by the Office of Attorney Services.

**(E) Serving as a paid expert witness**

The Chief Justice shall not assign a retired judge if the judge is serving or has served in the preceding twelve calendar months as an expert witness for which the judge has received compensation from a party in a proceeding in any federal or state court in the state.

**(F) Arbitration, mediation, and private judging**

The Chief Justice may assign a retired judge who engages in alternative dispute resolution, such as arbitration, mediation, and private judging pursuant to section 2701.10 of the Revised Code, but the level of the judge's activity in this regard, including the status of the judge's arbitration, mediation, or private judging docket, may limit the opportunity for assignments under these guidelines.

**(G) Defeat in final election**

Generally, the Chief Justice shall assign a retired judge to serve on a level of court only if the judge was not defeated in the judge's final election for new or continued service on that level of court. However, in no circumstance shall the Chief Justice assign a retired judge to serve on a level of court in the county if the judge was defeated in the judge's final election for new or continued service on that level of court in that county.

## **SECTION 4.0. LEVELS OF ASSIGNMENT.**

### **4.1. Levels of Assignment of Sitting Judges.**

The Chief Justice may assign a sitting judge to serve in other courts, subject to constitutional, statutory, and rule limitations, as follows:

**(A) Municipal or county court judge**

A sitting full-time or part-time municipal or county court judge may serve on another municipal or county court.

**(B) Court of common pleas judge**

A sitting court of common pleas judge may serve on a municipal or county court, another court of common pleas, the Court of Claims, or a court of appeals.

**(C) Court of appeals judge**

A sitting court of appeals judge may serve on a municipal or county court, a court of common pleas, the Court of Claims, a court of appeals, or the Supreme Court.

**(D) Supreme Court justice**

A sitting Supreme Court justice may serve on any court of record as deemed necessary.

### **4.2. Levels of Assignment of Retired Judges.**

The Chief Justice may assign a retired judge to serve in other courts, subject to constitutional, statutory, and rule limitations as follows:

**(A) Municipal or county court judge**

A retired full-time or part-time municipal or county court judge may serve on a municipal or county court.

**(B) Court of common pleas judge**

A retired court of common pleas judge may serve on a municipal or county court, a court of common pleas, or the Court of Claims.

**(C) Court of appeals judge**

A retired court of appeals judge may serve on a municipal or county court, a court of common pleas, the Court of Claims, or a court of appeals.

**(D) Supreme Court justice**

A retired Supreme Court justice may serve on any court of record as deemed necessary.

**SECTION 5.0. CERTIFICATES AND RESPONSIBILITIES ON ASSIGNMENT.**

**5.1. Certificates of Assignment.**

The Chief Justice shall issue a certificate of assignment for each assignment made, as follows:

**(A) Specific case**

If the assignment is for a specific case, the certificate of assignment shall state the case caption, case number, and assignment number, with no more than one certificate issued per case.

The administrative judge of the court requesting the assignment shall direct the original certificate of assignment be filed with the clerk of the court to which the judge has been assigned and included as part of the record in the case.

**(B) Specific period of time**

If the assignment is for a specific period of time, the certificate of assignment shall state the dates the assignment shall be in effect and the assignment number.

The administrative judge of the court requesting the assignment shall direct the original certificate of assignment be filed with the clerk of the court to which the judge has been assigned and entered upon the miscellaneous journal of the court. The administrative judge shall further direct photocopies of the file-stamped certificate be placed in the case file of every matter considered by the assigned judge pursuant to the certificate.

**(C) Special circumstances**

If the assignment is for a special circumstance not covered by a specific case or for a specific period of time, the certificate of assignment shall state the special circumstance and the assignment number.

The administrative judge of the court requesting the assignment shall direct the original certificate of assignment to be filed with the clerk of the court to which the judge has been assigned and entered upon the miscellaneous journal of the court. The administrative judge shall further direct photocopies of the file-stamped certificate be placed in the case file of every matter considered by the assigned judge pursuant to the certificate.

**5.2. Responsibility for Cases on Assignment.**

**(A) Assignment for specific case**

When a judge is assigned to a court for a specific case, the assignment shall continue until the conclusion of the case, including any post-judgment proceedings, unless and until the case is reassigned by the Chief Justice.

When an assigned judge arrives at a court on assignment to a specific case, the assigned judge may not exercise other judicial duties in that court until the conclusion of the assigned case, unless the administrative judge of the court or division specifically requests the Chief Justice to designate the assigned judge for that additional purpose by following the requirements of Guideline 2.4.

**(B) Assignment for specific period of time**

When a judge is assigned to a court for a specific period of time, the temporarily absent sitting judge shall retain responsibility for cases in which the sitting judge has resolved or presided over substantial preliminary matters. The assigned judge shall assume responsibility for cases in which the temporarily absent sitting judge has had the least involvement when the assignment occurs.

When a judge is assigned to a court for specific period of time, all matters pending before the assigned judge should be concluded by the end of the period. Any matter presented to the assigned judge that is not concluded by the end of the period may be extended beyond the end of the period, to allow the assigned judge an opportunity to conclude the matter, not to exceed three calendar months. If the matter continues for more than three calendar months after the end of the specified period, the administrative judge shall review the request and submit a request for continuation of the assignment, if appropriate.

**(C) Assignment for special circumstance**

When a judge is assigned to a court for a special circumstance, the assignment shall continue until the conclusion of the matter, including any post-judgment proceedings, unless and until the case is reassigned.

When an assigned judge arrives at a court on assignment on a special circumstance, the assigned judge may not exercise other judicial duties in that court until the conclusion of the special circumstance, unless the administrative judge of the court or division specifically requests the Chief Justice to designate the assigned judge for that additional purpose by following the requirements of Guideline 2.4.

**5.3. Responsibilities of Requesting Court.**

In addition to any other responsibilities noted herein, the court to which a judge is assigned shall also do all of the following:

**(A) Notification of counsel and parties**

Notify counsel of the assignment once it is made by the Chief Justice. If the parties are not represented by counsel, the parties shall be notified.

**(B) Facilities and staff support**

Provide sufficient facilities and staff support to enable the assigned judge to execute the responsibilities of the assignment properly and expeditiously. Support staff should include the services of a bailiff, court reporter, secretary, or law clerk as may be necessary and appropriate for the assignment.

**(C) Reporting of case statistics**

Report the work performed by the judge in the manner required by the Rules of Superintendence for the Courts of Ohio. No sitting judge shall report that the judge disposed of any case or conducted any jury or non-jury trial if the activity was performed by an assigned judge.

**SECTION 6.0. REIMBURSEMENT AND COMPENSATION.**

**6.1. Reimbursement for Travel Expenses.**

**(A) Appellate courts**

Reimbursement of travel expenses incurred by judges who are assigned to duty in the Supreme Court or a court of appeals shall be governed by the “Guidelines for

Reimbursement of Travel and Education Expenses for Appellate Judges” issued by the Supreme Court.

**(B) Trial courts**

Reimbursement of travel expenses incurred by sitting and retired judges who are assigned to duty in a court of common pleas or municipal or county court is the responsibility of the applicable county or municipal funding authority and shall be governed by the policies adopted by such authority.

**6.2. Compensation of Assigned Judge.**

**(A) Sitting judge**

If the assigned judge is a sitting judge, all requests for compensation should be forwarded as appropriate to the Supreme Court or local funding authority for payment as follows:

- (1) If sitting with the Supreme Court, the payment of compensation is governed by section 141.11 of the Revised Code, and all requests for compensation shall be submitted to the Supreme Court using its prescribed compensation form;
- (2) If sitting with a court of appeals, the payment of compensation is governed by division (B) of section 141.10 of the Revised Code;
- (3) If sitting with a court of common pleas, the payment of compensation is governed by section 141.07 of the Revised Code;
- (4) If sitting with a municipal or county court, the payment of compensation is governed by section 1901.10 of the Revised Code and Rule 17 of the Rules of Superintendence for the Courts of Ohio.

**(B) Retired judge sitting on court of common pleas or court of appeals**

If the assigned judge is a retired judge sitting on a court of common pleas or a court of appeals, all requests for compensation should be forwarded to the Supreme Court as follows:

- (1) A retired judge shall request compensation for work performed while serving on assignment by submitting a monthly-compensation report on a form prescribed by the Supreme Court. The report shall be submitted after the retired judge performs such work, but not later than the end of the calendar month that immediately follows the calendar month in which the work was performed.

(2) In accounting for work performed while serving on assignment, a retired judge shall specifically note the type of work performed, as required by the instructions accompanying the monthly compensation report;

(3) The compensation paid to a retired judge for work performed each day shall be computed by multiplying the number of hours worked that day times one-eighth of the per diem associated with that assignment, not to exceed the full per diem associated with that assignment. A retired judge shall not be entitled to more than one full per diem for each calendar day worked, regardless of the number of hours worked in a particular day.

(4) The aggregate annual compensation paid to a retired judge as a result of all assignments shall not exceed the annual compensation payable to a judge serving on the highest level of court to which the retired judge has been assigned during the calendar year;

(5) The Chief Justice reserves the right not to assign a retired judge who fails to submit monthly compensation reports in accordance with this guideline and to order the reimbursement of compensation paid to a retired judge who through mistake, inadvertence, or error submits an inaccurate report.

**(C) Retired judge sitting on municipal or county court**

(1) If the assigned judge is a retired judge sitting on a municipal or county court, all requests for compensation should be forwarded to the applicable local funding authority for payment.

(2) When submitting a request pursuant to section 1901.121 of the Revised Code for reimbursement to the county treasury of the per diem compensation paid an assigned judge, the treasurer of the county shall include the assignment number.

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