

The Supreme Court of Ohio

GUIDELINES FOR ASSIGNMENT OF JUDGES

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The Ohio Constitution, the Revised Code, and the Rules of Superintendence for the Courts of Ohio vest the Chief Justice of the Supreme Court with the authority to make temporary assignments of judges to serve in any Ohio court in whatever circumstances the Chief Justice deems appropriate.

These guidelines are issued by the Chief Justice and intended to establish consistent standards and expectations 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. DEFINITIONS.

1.01. Definitions.

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

(A) Administrative judge

“Administrative judge” means the judge of a court or division of a court, as applicable, designated or elected as such pursuant to Sup.R. 4.

(B) Assigned judge

“Assigned judge” means either of the following:

- (1) A sitting judge whom the Chief Justice assigns to serve temporarily on a court other than the court on which the sitting judge serves;
- (2) A retired judge whom the Chief Justice assigns to serve temporarily on a court.

(C) Chief Justice

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

(D) Presiding judge

“Presiding judge” means a judge of a court designated or elected as such pursuant to Sup.R. 3.

(E) Retired judge

“Retired judge” means a person who left judicial service on any Ohio court 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 Ohio court pursuant to the Rules for the Government of the Judiciary or resigned or retired from service on any Ohio court while a complaint was pending against the person under those rules.

(F) Sitting judge

“Sitting judge” means a person who currently serves on any Ohio court by reason of election or gubernatorial appointment.

SECTION 2. REQUIREMENTS AND PROCEDURES FOR ASSIGNMENT.

2.01. Reasons for Assignment.

The administrative judge of a court or division of a court, as applicable, may request the Chief Justice to temporarily assign a sitting or retired judge to serve as an assigned judge on that court or division pursuant to these guidelines and for any of the following reasons:

- (A) A sitting judge of the court or division recuses from one or more specific cases because of a conflict of interest;
- (B) A sitting judge of the court or division 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.
- (C) The court or division has an overburdened docket or anticipates an extended trial that will disrupt its docket;
- (D) Any extraordinary circumstance approved by the Chief Justice.

2.02. Type and Length of Assignment.

(A) Type of assignment

The Chief Justice may temporarily assign a sitting or retired judge as an assigned judge to one or more specific cases; for a specific period of time; or in a special circumstance, such as the convening and 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 assign a sitting judge as an assigned judge for a specific period of time exceeding six consecutive months or a retired judge as an assigned judge for a specific period of time exceeding three consecutive months, provided the Chief Justice may reassign the judge for additional specific periods of time as needed.

2.03. Requests for Assignment due to Recusal.

(A) Single-judge court or division

In the event of the recusal of a judge in a single-judge court or division, the judge may request the Chief Justice to assign a sitting or retired judge as an assigned judge to the court or division. The judge shall not request the Chief Justice to assign a specific sitting or retired judge.

(B) Multiple-judge court or division

(1) In the event of the recusal of a judge in a multiple-judge court or division, the following shall apply:

(a) If the administrative judge of the court or division reasonably believes that other judges of that court or division are eligible to hear the case, the administrative judge shall make at least three attempts to have the case randomly assigned to another judge of that court or division. If after three attempts to have the case randomly assigned to another judge no judge is eligible to hear the case, the administrative judge may request the Chief Justice to assign a sitting or retired judge as an assigned judge to that court or division. The request shall include certification to the Chief Justice the requirements of this division have been satisfied.

(b) Pursuant to Sup.R. 36.019, if the administrative judge of the court or division reasonably believes that no judge of that court or division is eligible to hear the case, the administrative judge may request the Chief Justice to assign a sitting or retired judge as an assigned judge to that court or division.

(2) When requesting the Chief Justice to assign an assigned judge pursuant to division (B)(1) of this guideline, the judge shall not request the Chief Justice to assign a specific sitting or retired judge.

2.04. Requests for Assignment for a Specific Time Period.

(A) Single-judge court

In the event of the absence of a judge in a single-judge court for a reason other than recusal of the judge, the judge may request the Chief Justice to assign a sitting or retired judge as an assigned judge to the court for a specific period of time. The judge may request the Chief Justice to assign a specific sitting or retired judge, however the Chief Justice is not required to assign that judge.

(B) Single-judge division

In the event of the absence of a judge in a single-judge division of a court for a reason other than recusal of the judge, the judge may do either of the following:

- (1) Request the presiding judge of the court to assign a sitting judge from another division of the court to perform any unanticipated emergency duties of the judge who is requesting an assigned judge if the requesting judge has no hearings or trials scheduled for the time of the absence;
- (2) Request the Chief Justice to assign a sitting or retired judge as an assigned judge to the division for a specific period of time. The judge may request the Chief Justice to assign a specific sitting or retired judge, however the Chief Justice is not required to assign that judge.

(C) Multiple-judge court without divisions

In the event of the absence of a judge in a multiple-judge court that does not consist of divisions for a reason other than recusal of the judge, the following shall apply:

- (1) The administrative judge of the court shall attempt to arrange for another sitting judge of the court to perform the duties of the judge who is requesting an assigned judge. The administrative judge may require the judge requesting the assigned judge to satisfy this requirement.
- (2) If no sitting judge of the court is eligible or available to perform the duties of the judge who is requesting an assigned judge, the administrative judge of the court may request the Chief Justice to assign a sitting or retired judge as an assigned judge to the court for a specific period of time. The judge may request the Chief Justice to assign a specific sitting or retired judge, however the Chief Justice is not required to assign that judge.

(D) Multiple-judge court with divisions

In the event of the absence of a judge in a multiple-judge court that consists of divisions for a reason other than recusal of the judge, the following shall apply:

(1) The administrative judge of the division shall attempt to arrange for another sitting judge of the division to perform the duties of the judge who is requesting an assigned judge. The administrative judge may require the judge requesting the assigned judge to satisfy this requirement.

(2) If no other judge of the division is available, the administrative judge of the division shall request the presiding judge of the court to assign a sitting judge from another division of the court to perform any unanticipated emergency duties of the judge who is requesting an assigned judge if the requesting judge has no hearings or trials scheduled for the time of the absence;

(3) If no sitting judge of the court is eligible or available to perform the duties of the judge who is requesting an assigned judge, the administrative judge of the division may request the Chief Justice to assign a sitting or retired judge as an assigned judge to the court for a specific period of time. The judge may request the Chief Justice to assign a specific sitting or retired judge, however the Chief Justice is not required to assign that judge.

2.05. Requests for Assignment due to Affidavit of Disqualification.

(A) Assignment of judge in single-judge court or single-judge division

If a judge of a single-judge court of common pleas, municipal court, or county court with no divisions or of a single-judge division in a multiple-division court of common pleas, municipal court, or county court is disqualified as the result of an affidavit of disqualification filed pursuant to R.C. 2701.03, the Chief Justice shall assign a sitting or retired judge to serve as an assigned judge on that court pursuant to these guidelines.

(B) Assignment of judge in multiple-judge court or multiple-judge division

If a judge of a multiple-judge court of common pleas, municipal court, or county court with no divisions or of a multiple-judge division in a multiple-division court of common pleas, municipal court, or county court is disqualified as the result of an affidavit of disqualification filed pursuant to R.C. 2701.03 and the Chief Justice does not specifically assign a judge to hear the proceeding, the following shall apply to the assignment of another judge to the case:

(1) If the Chief Justice orders the administrative judge to assign the proceeding to another judge of the court or division, as applicable, and the

court or division consists of only two judges, the case shall be assigned to the other judge of that court or division.

(2) If the Chief Justice orders the administrative judge to assign the proceeding to another judge of the court or division, as applicable, and the court or division consists of more than two judges, the administrative judge shall make at least three attempts to have the case randomly assigned to another judge of that court or division. If after three attempts to have the case randomly assigned to another judge no judge is eligible to hear the case, the administrative judge may request the Chief Justice to assign a sitting or retired judge as an assigned judge to that court or division.

2.06. Procedure for Requesting Assignment.

(A) Requirements

The administrative judge of a court or division of a court, as applicable, shall make the request for an assigned judge. The request shall meet all of the following requirements:

(1) Be submitted by electronic means via the Supreme Court's website. If unexpected circumstances preclude electronic submission of the request, the administrative judge may request an assigned judge by telephone or other means.

(2) State the reason, pursuant to Guideline 2.01, the court or division requires the assistance of an assigned judge. The Chief Justice may deny any request for an assigned judge that does not contain the reason for the request.

(3) State whether, pursuant to Guideline 2.02, the assignment should be for one or more specific cases, for a specific period of time, or for a special circumstance. If for a specific period of time, the request shall state the length of assignment requested.

(B) Attestation

If the administrative judge submitting a request pursuant to division (A) of this guideline is from a multiple-judge court or multiple-division court, submission of the request shall be deemed as confirmation of compliance with Guidelines 2.03 or 2.04, as applicable.

SECTION 3. FACTORS IN SELECTING JUDGES FOR ASSIGNMENT.

3.01. General Factors for Consideration in Selecting Judges for Assignment.

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

- (A) The status of the docket of the judge;
- (B) The competence of the judge for the prospective duties;
- (C) The experience of the judge 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) The proximity of the judge to the court making the request. Whenever feasible, a judge from a nearby county should be assigned in order to economize on travel time as well as to eliminate or minimize overnight expenses.

3.02. Additional Factors in Selecting Retired Judges for Assignment.

(A) Practice of law

The Chief Justice shall not assign a retired judge as an assigned judge if the judge is 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 as an assigned judge only if the judge is an elector of the state.

(C) Judicial education requirements

The Chief Justice shall assign a retired judge as an assigned 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 as an assigned 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 as an assigned 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 as an assigned judge if the judge engages in alternative dispute resolution, such as arbitration, mediation, and private judging pursuant to section R.C. 2701.10. However, 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

The Chief Justice shall assign a retired judge to serve as an assigned judge 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.

(H) Time following judicial service

Except in exigent circumstances, the Chief shall not assign a retired judge to serve as an assigned judge until thirteen weeks after the date the judge left judicial service as a sitting judge.

SECTION 4. LEVELS OF ASSIGNMENT.

4.01. Levels of Assignment of Sitting Judges.

Subject to constitutional, statutory, and rule limitations, the Chief Justice may assign a sitting judge to serve as an assigned judge on other courts as follows:

(A) A sitting full-time or part-time municipal or county court judge may serve on another municipal or county court;

(B) A sitting court of common pleas judge may serve on a municipal or county court, another court of common pleas, or the Court of Claims;

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

4.02. Levels of Assignment of Retired Judges.

Subject to constitutional, statutory, and rule limitations, the Chief Justice may assign a retired judge to serve as an assigned judge on courts as follows:

(A) A retired full-time or part-time municipal or county court judge may serve on a municipal or county court;

(B) 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) 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) A retired Supreme Court justice may serve on a municipal or county court, a court of common pleas, the Court of Claims, or a court of appeals.

SECTION 5. CERTIFICATES OF AND RESPONSIBILITIES ON ASSIGNMENT.

5.01. Certificates of Assignment.

(A) Specific case

(1) The Chief Justice may issue a certificate of assignment for 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.

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

(B) Specific period of time

(1) The Chief Justice may issue a certificate of assignment for a 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.

(2) The administrative judge of the court or division of the court, as applicable, requesting the assignment shall direct the original certificate of assignment be filed

with the clerk of the court to which the assigned 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

(1) The Chief Justice may issue a certificate of assignment for 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.

(2) The administrative judge of the court or division of the court, as applicable, requesting the assignment shall direct the original certificate of assignment to be filed with the clerk of the court to which the assigned 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.

5.02. Responsibility for Cases on Assignment.

(A) Assignment for specific case

(1) When an assigned judge is assigned to a court or a division of 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 Chief Justice reassigns the case or withdraws the assignment.

(2) When an assigned judge arrives at a court or division of a court on assignment to a specific case, the assigned judge may not exercise other judicial duties in that court or division, as applicable, 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 Section 2 of these guidelines.

(B) Assignment for specific period of time

(1) When an assigned judge is assigned to a court or a division of 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.

(2) When an assigned judge is assigned to a court or a division of 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 months. If the matter continues for more than three 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

(1) When an assigned judge is assigned to a court or a division of 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 Chief Justice reassigns the matter or withdraws the assignment.

(2) When an assigned judge arrives at a court or a division of a court on assignment on a special circumstance, the assigned judge may not exercise other judicial duties in that court, unless the administrative judge of the court or division of the court, as applicable, specifically requests the Chief Justice to designate the assigned judge for that additional purpose by following the requirements of Section 2 of these guidelines.

5.03. Responsibilities of Requesting Court or Division.

In addition to any other responsibilities noted herein, the court or division of the court, as applicable, to which an assigned judge is assigned shall also do all of the following:

(A) 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) 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) Report the work performed by the assigned 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. REIMBURSEMENT AND COMPENSATION.

6.01. Reimbursement for Travel Expenses.

(A) Appellate courts

Reimbursement of travel expenses incurred by assigned 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 assigned 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.

6.02. Compensation of Sitting Judge.

If an 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 R.C. 141.11, 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 R.C. 141.10(B);

(3) If sitting with a court of common pleas, the payment of compensation is governed R.C. 141.07;

(4) If sitting with a municipal or county court, the payment of compensation is governed by R.C. 1901.122 and Sup.R. 17.

6.03. Compensation of Retired Assigned Judge.

(A) Submission of request

If the assigned judge is a retired judge, all requests for compensation should be submitted to the Supreme Court as follows:

(1) The assigned judge shall request compensation for work performed while serving on assignment by submitting a compensation report by electronic means via the Supreme Court’s website. The judge should

submit a daily request for work performed that day. However, if the judge does not submit daily requests, the judge shall submit a request after the judge performs such work, but not later than the fifteenth day of the calendar month that immediately follows the calendar month in which the work was performed.

(2) When submitting a compensation request pursuant to division (A)(1) of this guideline, the assigned judge shall certify that the record the judge is entering is true and accurate and that the work for which compensation is sought was performed pursuant to a trial, hearing, docket review, conference, research or writing, travel, or court administrative duties;

(3) When submitting a compensation request pursuant to division (A)(1) of this guideline, the assigned judge shall include the assignment number from the certificate of assignment issued by the Chief Justice, the date on which the work was performed, and the total number of hours of the work expressed in whole numbers. If the total number of hours worked includes a portion of an hour less than one-half of an hour, the judge shall round the hour down to the nearest whole hour. If the total number of hours worked include a portion of an hour equal to or greater than one-half of an hour, the judge shall round the hour up to the nearest whole hour. If the judge worked on more than one matter in an hour and each matter has a separate assignment number, the judge shall report only the assignment number of the matter on which the judge spent the most time.

(B) Amount of compensation

(1) The compensation paid to the assigned 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. The assigned 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.

(2) The aggregate annual compensation paid to the assigned 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 judge has been assigned during the calendar year;

(C) Failure to submit compensation requests

The Chief Justice reserves the right not to assign an assigned judge who fails to submit compensation requests in accordance with this guideline.

(D) Submission of inaccurate request

The Chief Justice may order the reimbursement of compensation paid to a retired judge who through mistake, inadvertence, or error submits an inaccurate request.

6.04. Retired Assigned Judge Payment.

An assigned judge who is a retired judge may be eligible to receive a retired assigned judge payment pursuant to R.C. 141.16.

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