

SUPREME COURT OF APPEALS
STATE OF WEST VIRGINIA



STEVEN D. CANTERBURY
ADMINISTRATIVE DIRECTOR



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MEMORANDUM

TO: ALL JUSTICES
FROM: STEVE CANTERBURY *SC*
DATE: October 19, 2016
RE: FINAL ADMINISTRATIVE CONFERENCE MINUTES

Attached for your records are final Minutes from the Administrative Conference held
Monday, October 3, 2016.

Attachment

MINUTES

ADMINISTRATIVE CONFERENCE

OCTOBER 3, 2016

1. TRAVEL REGULATIONS

By a vote of 5 – 0, the Court approved the travel regulations with the following edit included in 10.4:

10.4 JUSTICES' TRAVEL

An expense account submitted by a Justice of the West Virginia Supreme Court of Appeals pursuant to Judicial Branch policies shall be honored irrespective of any of the language in these travel regulations.

2. APPROVAL OF REPLICON CONTRACT

By a vote of 5 – 0, the Court approved the Replicon contract.

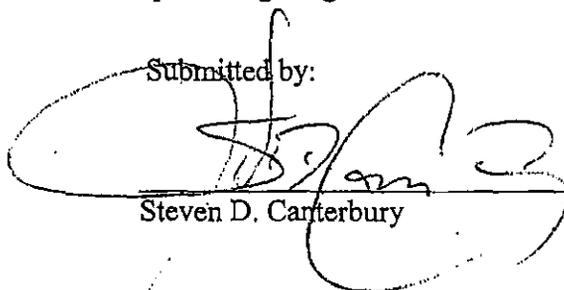
3. WEST VIRGINIA JUDICIAL SYSTEM PERSONNEL MANUAL

By a vote of 4 – 1, with Justice Loughry voting against the matter, the West Virginia Judicial System Personnel Manual was approved as edited in the Administrative Conference. The editing deleted Section 2.12 (E) and included edits provided earlier (and included in the attachment) by the Chief Justice.

4. LEGAL OPINION REGARDING USE OF DRUG COURT PARTICIPANTS' FEES

The matter was tabled until Probation Services Deputy Director Lora Maynard and Probation Services Counsel Rob McKinney can meet with the Justices at the next Administrative Conference in order to discuss the legal opinion and the large balances that are carried by many of the drug court programs. The Court also wishes to hear from them regarding §62-15-6 and whether or not the Division of Justice and Community Services should be paying for some of the drug testing and other costs involved with providing drug court services.

Submitted by:



Steven D. Carterbury

Date: 10-19-16

Addendum

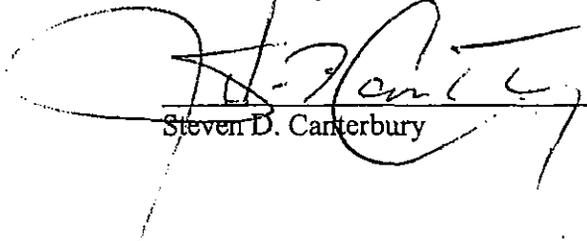
October 3, 2016

Administrative Conference Agenda

**ADD. APPROVAL OF MESHELE BANKS-JEFFRIES FOR ACCOUNTS
PAYABLE CLERK**

By a vote of 5 – 0, the Court approved the hiring of Ms. Meshele Banks-Jeffries as an accounts payable clerk in the Division of Finance at a salary of \$34,000, to begin October 16, 2016.

Submitted by:



Date: 10-10-16

Steven D. Canterbury

AGENDA

ADMINISTRATIVE CONFERENCE

OCTOBER 3, 2016

1. TRAVEL REGULATIONS

Discussion:

At the last Administrative Conference, the Administrative Director distributed a memorandum from Finance Director Sue Troy reporting that the newly hired travel reimbursement director in the Auditor's Office had requested a copy of the Court's travel regulations for the Auditor's Office file. Sue also referred to WV Code 12-3-11 which reinforces the Auditor's Office demand.

A copy of the travel regulations was distributed and the Administrative Director hoped to get approval of these regulations so that they could be sent to the Auditor's Office. However, several points were made regarding the limitations that these regulations could impose on Justices' requests for reimbursement. The regulations, incidentally, were just copied *verbatim* from the Personnel Manual.

Therefore, an addition has been made to the regulations, an addition which will not be part of the Personnel Manual since it applies only to the Justices and to no other employee. The entire set of regulations is attached. However, for ease of discussion, the additional passage is as follows:

10.4 JUSTICES' TRAVEL

An expense account submitted by a Justice of the West Virginia Supreme Court of Appeals shall be honored irrespective of any of the language in these travel regulations.

Attachment – Tab 1

Draft of Proposed Travel Regulations for Court Employees

Recommendation:

The Court discuss the matter, edit as needed, and approve a final set of travel regulations to be sent to the Auditor's Office

2. APPROVAL OF REPLICON CONTRACT

Discussion:

During the September 6, 2016, Administrative Conference, Justices asked that a copy of the contract be included for the Court's perusal. The contract is more precisely the Sign-Off Document and the Terms and Conditions coupled with the WV-96. They are attached. Deputy Administrative Director Jennifer Singletary, who has directed the transition to Replicon, will be available to answer questions.

The contracting of Replicon is the result of the changes wrought by OASIS regarding time-keeping and payroll. While it is possible to continue to use the paper time sheets that have been used for decades, there are a number of efficiencies if the Court's employees begin to use electronic time-keeping.

The Office of Clerk had for some years been using Replicon and, upon investigation, the Administrative Office staff found that Replicon would work for all of the Court employees – in the field as well as here in the Administrative Office. In fact, Deputy Clerk Eydie Gaiser worked with Deputy Director Jennifer Singletary in negotiations and development of the attached agreement.

For the last year, Deputy Director Singletary has been working with Replicon staff and the Court's time-keepers to build an automated time-keeping system to be used by all Court employees. The contract is now due for renewal. It totals \$49,592.40. It should be noted that the contract will need renewed annually, and it is likely to inch up in succeeding years, although the approximately \$50,000 cost will, hopefully, remain in place for the next couple of years.

Attachments– Tab 2

Replicon Contract Renewal Order

Sign-Off Document including statement of work describing how the software is configured

Terms and Conditions

WV-96

Recommendation:

The Court approve the \$49,592.40 Replicon contract

3. WEST VIRGINIA JUDICIAL SYSTEM PERSONNEL MANUAL

Discussion:

As noted when a draft of the newly revised and edited *West Virginia Judicial System Personnel Manual* was distributed, the old Manual is woefully out-of-date and awkwardly presented. For eighteen months, besides working at her other tasks, Deputy Administrative Director Jennifer Singletary has reviewed every section, worked with division directors to ensure that what is described is actual practice, and vetted every part with current federal Department of Labor regulations.

Chief Justice Ketchum has made some editorial changes which are noted as strike-throughs or are added in red in the attachment, the Personnel Manual including the Chief's edits. An executive summary was distributed to all Justices several weeks ago to assist with the editing process. Thus far, no other editorial suggestions have been received, although, of course, any and all editing suggestions are certainly welcome.

A last point: all such manuals are never fixed in place. As laws, policies, procedures, and even technologies change, there are inevitable editorial edifications that must be made in such a manual.

Attachment – Tab 3

Revised and edited *Judicial System Personnel Manual*

Recommendation:

The Court discuss the West Virginia Judicial System Personnel Manual to edit as necessary with the focus on having it approved by no later than the end of November

4. LEGAL OPINION REGARDING USE OF DRUG COURT PARTICIPANTS' FEES

Discussion:

During the June 16, 2016, Administrative Conference, the Court discussed the costs of drug courts and Justices requested a legal opinion regarding whether or not drug court participants' fees could be used to pay for some of the drug testing, counseling, and other such services. The Administrative Director was asked to provide a legal opinion regarding this matter.

Typically, such legal opinions are crafted by Administrative Counsel Kirk Brandfass. However, in this case, Probation Counsel Rob McKinney seemed more appropriate since he deals with drug court legal matters routinely. Therefore, the legal opinion attached is from Mr. McKinney.

He concludes that such fees are likely prohibited because of the Code's prohibition against using those fees to "supplant" drug court costs currently paid by the Supreme Court. He does provide an alternative possible reading of the Code regarding the prohibition against supplanting. But he cautions that "this argument [is] questionable."

He concludes that "It therefore appears that it may be best to trust in the local drug court programs' judgment in assessing and utilizing drug court fees to enhance the services those programs provide."

Attachment – Tab 4

August 1, 2016, memorandum from Division of Probation Services Counsel Rob McKinney to the Administrative Director, *et al.*

Recommendation:

The Court discuss the matter

Addendum

October 3, 2016

Administrative Conference Agenda

**ADD. APPROVAL OF MESHELE BANKS-JEFFRIES FOR ACCOUNTS
PAYABLE CLERK**

Discussion:

Director of Finance Sue Troy interviewed several candidates to replace Margaret Lacy whom the Court approved to transfer to the vacant position in the Division of Human Resources. Director Troy has chosen Meshele Banks-Jeffries for the position. Her résumé follows.

The suggested salary is the same as that of Ms. Lacy's before leaving the position -- \$34,000 per year.

Attachments -- Tab ADDENDUM

September 25, 2016, memorandum from Director of Finance Sue Troy to the Administrative Director

Résumé of Ms. Meshele Banks-Jeffries

Recommendation:

The Court approve the hiring of Ms. Meshele Banks-Jeffries as an accounts payable clerk in the Division of Finance at a salary of \$34,000, to begin October 16, 2016

DRAFT

Travel Regulations for Court Employees

SECTION 10: TRAVEL REGULATIONS

The regulations set out in this section supersede the travel regulations previously promulgated by the Supreme Court of Appeals, effective October __, 2016.

10.1 GENERAL PROVISIONS

- A. An employee's official headquarters is the same as that of the court for which he or she works. A judge's county of residence determines his or her headquarters within the Circuit. If a judge's employee's headquarters is different from that of the judge, such different headquarters must be designated by the Chief Judge in writing and approved by the Chief Justice. An employee will not be reimbursed for commuting from his or her residence to headquarters, except for judges as provided in W.Va. Code § 6-7-5 and for judges' secretaries and court reporters or electronic recording operators who demonstrate an undue burden to, and receive approval by, the Administrative Director. The Administrative Director will consider requests on a case-by-case basis, and determination of whether undue burden is demonstrated shall be in his or her sole discretion.
- B. Individuals conducting official business or who are being interviewed for employment within the state judicial system will be allowed reimbursement for expenses under the regulations of this section.
- C. The standard state *Travel Expense Account* form (available on the publicly accessible internet) must be used for submission of all claims. Claim items and amounts must be listed day-by-day for each date of travel, and receipts must be attached for items requiring documentation. The claimant must sign the expense account. Expense accounts of employees other than judges must be certified by the appropriate supervising Circuit Judge, Chief Magistrate, or chief probation officer; all other expense accounts must be certified by an Administrative Office staff member having signature authority.
- D. No "miscellaneous" listing claimed on an expense account will be reimbursed.
- E. Expenses paid by or reimbursed by a third party will not be otherwise reimbursed.

F. The following expense claims, if otherwise allowable, require documentation submitted with the expense account:

1. Airfare: original customer receipt portion of the airline ticket. The Administrative Office has a direct-billing arrangement with National Travel for booking airfare. Call the Administrative Office Finance Division for details;
2. Lodging: original hotel bill showing full credit or zero balance, the original customer copy of the credit card slip, or a photocopy of both sides of the cancelled check together with the original hotel bill;
3. Parking: original receipt;
4. Ground transportation (taxi, airport bus, van, or limo; car rental and gasoline): original receipt;
5. Conference tuition, registration, or other fees for educational opportunities: original receipt or photocopy of both sides of cancelled check -- unless, for out-of-state conferences, billed directly to the Supreme Court.

G. Expense accounts for in-state conferences and for out-of-state travel must be submitted within one month of the return date. Expense accounts for other in-state travel must be submitted within three months of any date of travel.

10.2 IN-STATE TRAVEL

A. **TRANSPORTATION -- PERSONAL VEHICLE:** Reimbursement will be allowed for driving, by the most direct and/or practical route, from and return to headquarters to perform duties or engage in other approved activities. The mileage reimbursement rate follows that set annually by the United States General Services Administration. Charges for tolls, parking or other travel expenses must be documented by original receipt.

B. **TRANSPORTATION -- RENTAL VEHICLE**

1. Except for vehicles rented by Supreme Court Justices, reimbursement will be allowed for car rental only if the Administrative Director or his designee has granted approval in advance, and rental cars must be driven within the travel requirements for personal vehicles;
2. Allowable reimbursements will be for rental charges (but not optional insurance) and gasoline, both of which must be documented by original

receipts; toll charges; and parking, which also must be documented by an original receipt.

C. TRANSPORTATION: COMMON CARRIER OR PUBLIC CONVEYANCE

1. Reimbursement will be allowed for commercial airline, train, or bus (at tourist or economy rates, unless the travel time exceeds three hours).
2. The Administrative Office has a direct-bill arrangement for booking airfare. Contact the Finance Division for details. Otherwise, allowable reimbursement will be for the following: ticket or supersaver reduced-price airfare cost, which must be documented by original customer ticket stub, original receipt, or photocopy of both sides of cancelled check; mileage; and parking (the latter must be documented by original receipt). The Administrative Director may approve reimbursement to employees holding a non-refundable airline ticket if approved travel is cancelled for a reason deemed by the Administrative Director to be an unavoidable emergency.
3. Reimbursement for ground transportation expense at destination site will be allowed only from airport or station to hotel and return (which must be documented by original receipt).

D. LODGING

1. Reimbursement or direct billing to the Supreme Court will be allowed for overnight stays more than 40 miles from headquarters when required for the employee to perform official duties or to engage in other approved activities.
2. Allowable reimbursement or direct billing to the Supreme Court will be at the single-occupancy (and, if available, government or conference) rate; the cost (unless direct-billed) must be documented by the original hotel bill showing full credit or a zero balance; or by either the original customer copy of the credit card slip or a photocopy of both sides of the cancelled check together with the original hotel bill.
3. Reimbursement will be allowed for necessary transfer or storage of baggage on the check-in or check-out dates not to exceed 10% of the daily single-occupancy hotel rate, with presentation of receipt.
4. No reimbursement will be allowed for such extra hotel charges as entertainment, bar bills, laundry, valet service, or personal telephone calls or for any lodging or meal charges for an employee's guest(s).

E. MEALS

1. Reimbursement for meals will be allowed (except for judges receiving the statutory *per diem*) when travel outside an employee's headquarters county is required to perform official duties or to engage in other approved activities when there is an overnight stay away from home.
2. Reimbursement is limited to actual expenses for food, service, and gratuities, not to exceed the Authorized Daily Rates as established by the U.S. General Services Administration (GSA), accessible on the internet at <http://www.gsa.gov/portal/content/104877>. Specifically excluded are alcoholic beverages and entertainment expenses. Where a percentage of the maximum daily rate is used, the traveler may round the calculated amount up to the next whole dollar.
3. When meals are provided for a traveling employee, the employee must deduct from the maximum daily rate as detailed by the GSA in the online chart of Meals and Incidental Expenses (M&IE) Breakdown, accessible online following links from the above web address.
4. On the first and last days of travel on a multi-day trip, the meal reimbursement rate is 75% of a full travel day's rate, regardless of arrival and departure time. As in Subsection 3 above, if meals are provided on these days, meal expenses submitted for reimbursement must be deducted accordingly.
5. Employees who attend a banquet at a conference sponsored by the Supreme Court may be reimbursed for the banquet cost or have the cost directly billed to the Supreme Court, regardless of the event location.
6. The costs of all coffee breaks or refreshments during functions sponsored by the Supreme Court will be paid directly by the Court and will not reduce the meal allowance for personnel participating in the functions.

F. DIFFERING REGULATIONS FOR EDUCATION TRAVEL: For specific variations in allowances for education-related travel, prevailing over this section's regulations, see Section 9., which follows below.

G. CIRCUIT JUDGE OUT-OF-COUNTY DUTY TRAVEL: A Circuit Judge traveling outside of his or her county of residence to hold court may opt either for the *per diem* allowance under W.Va. Code § 6-7-5 or for expense reimbursement under the regulations above.

10.3 OUT-OF-STATE TRAVEL

- A. **APPROVAL:** All out-of-state travel, except that made by Supreme Court Justices, must be approved in advance by the Administrative Director or Director of Judicial Education or either of their designees. Requests by employees other than Circuit Judges, unless initiated by the Administrative Director, must be recommended by the selecting authority. Requests must include information sufficient to show justification and estimated costs. An exception to the approval requirement and procedure above is that expense accounts by probation officers for out-of-state duty travel need only be accompanied by a court order directing such travel.
- B. **CONFERENCE TUITION, REGISTRATION, AND OTHER FEES:** Unless billed directly to the Supreme Court, reimbursement will be allowed at actual cost for approved seminars, workshops, or conventions as documented by original receipt or photocopy of both sides of a cancelled check.
- C. **TRANSPORTATION:** Allowances for transportation will be the same as previously described for in-state travel, except when out-of-state travel is by personal auto, reimbursement for transportation, meals, and hotel together on the days *en route* may not exceed the round-trip coach fare for travel by commercial airline to and from the destination.
- D. **LODGING:** Allowances for lodging will be the same as previously described, except for approved attendance at programs conducted by the National Judicial College, the American Academy of Judicial Education, the National Center for State Courts, and other national providers. In these instances, reimbursement will be limited to the amounts charged for the accommodations provided or made available by the program sponsor.
- E. **MEALS:** meal expenses are reimbursed as previously described for in-state travel.
- F. **CASH ADVANCES**
 - 1. The Administrative Director, the Director of Judicial Education, or either of their designees for doing so may, upon timely request, approve a cash advance for out-of-state travel.
 - 2. A request for a cash advance for out-of-state travel must be communicated to the Administrative Office at least three weeks in advance of the expected departure date.
 - 3. A cash advance reflects an estimate of expenses to be incurred for approved out-of-state travel. A cash advance is not a minimum

allowance or guarantee, and any surplus (amount beyond actual allowable expenditures) must be refunded to the state at the time of settlement by the employee who received the advance.

4. Anyone receiving a cash advance is personally responsible for filing actual allowable expenses and making final settlement, through the Administrative Office, within one month after the return date of the out-of-state trip.

10.4 JUSTICES' TRAVEL

An expense account submitted by a Justice of the West Virginia Supreme Court of Appeals shall be honored irrespective of any of the language in these travel regulations.

SECTION 9: EDUCATION TRAVEL REGULATIONS

- 9.3 **MILEAGE REIMBURSEMENT:** Employees may receive reimbursement for mileage to attend approved education courses offered outside the county of residence. Reimbursement will be for actual mileage from work place or residence to the course or program location and return. Reimbursement for such expenses is subject to Supreme Court travel regulations and any further limitations set in particular instances by the Director of Judicial Education or the Administrative Director.
- 9.4 **LODGING AND MEALS REIMBURSEMENT:** Employees may receive reimbursement for lodging and meals associated with attendance at in-state courses and programs only in special circumstances and with advance approval by the Director of Judicial Education or Administrative Director. Reimbursement for such expenses is subject to Supreme Court travel regulations and to any further limitations set in particular instances by the Director of Judicial Education or Administrative Director.
- 9.5 **APPLICATION AND REIMBURSEMENT PROCEDURES:** Employees must submit the following to the Director of Judicial Education:
 - A. Approved, signed *Application for Education Benefits* (form available on the publicly accessible internet);
 - B. Within six weeks after the successful completion of the college course: a completed *Employee Reimbursement Request* form (available on the publicly accessible internet), together with either an original receipt for tuition and/or

registration fees, OR two photocopies of both sides of the canceled check for tuition and/or registration fees.

- C. If reimbursement has been approved for mileage, lodging, and/or meals, submit a separate *Travel Expense Account* (form available on the publicly accessible internet.) Reimbursement for such expenses is subject to Supreme Court travel regulations and to any further limitations set in particular instances by the Director of Judicial Education or Administrative Director.

9.6 OUT-OF-STATE EDUCATION PROGRAMS

Requests to attend out-of-state education programs at state expense must be submitted to the Administrative Director or Director of Judicial Education for approval. Requests by personnel other than judges, unless initiated by the Administrative Director, must be accompanied by a favorable recommendation from the supervising judge. Cash advances and/or reimbursement allowances for attendance at out-of-state programs are governed by the Supreme Court travel regulations.