COLORADO JUDICIAL SYSTEM

PERSONNEL RULES

Questions and/or Comments
State Court Administrator's Office
Human Resources Division
1300 Broadway, Suite 1200,
Denver, Colorado 80203

Effective: May 1, 2022

ORDER ADOPTING PERSONNEL RULES

Pursuant to the authority vested by Article VI, Section 5(3) of the Colorado Constitution, and in fulfillment of the requirements of C.R.S. § 13-3-105(2) and C.R.S. § 13-3-105(3), the Colorado Judicial System Personnel Rules effective October 1, 2020 are hereby repealed and replaced by the Colorado Judicial System Personnel Rules effective July 1, 2021.

The Personnel Rules as attached are approved by the Colorado Supreme Court.

_____

Brian D. Boatright
Chief Justice, Colorado Supreme Court

Table of Contents

PART 1
GENERAL PROVISIONS

Rule 1 - Citation

These rules shall be known and may be cited as the Colorado Judicial System Personnel Rules, or C.J.S.P.R.

Rule 2 - Authority

These rules are promulgated by the Supreme Court pursuant to the authority vested by section 5(3) of article VI of the state constitution, and in fulfillment of the requirements of section 13-3-105, 6A C.R.S. The State Court Administrator, or designee, shall establish such procedures as may be necessary to implement these rules.

Rule 3 - Scope

These rules shall apply to all employees of the Judicial Department whose positions are within the job classification and compensation plan established by these rules pursuant to section 13-3-105, C.R.S. and section 5(3) of article VI of the Colorado constitution. Contract Employees are governed by these rules and their employment contract. Certain rights afforded by these rules are not applicable to all employees and the employee should check each rule for its applicability to that employee.

These rules shall not apply to persons who perform services for the Judicial Department as independent contractors. These rules shall not apply to employees of the Office of Attorney Regulation Counsel; Office of the Presiding Disciplinary Judge; Office of Judicial Performance; Board of Continuing Legal and Judicial Education; Board of Law Examiners; Office of Attorney Registration; Judicial Discipline Commission; Office of Alternate Defense Counsel; Office of the Child's Representative; Office of the Public Defender; Independent Ethics Commission; Office of Respondent Parents' Counsel; Office of the Child Protection Ombudsmen; Office of Public Guardianship or any other office established under an authority other than that vested in the Supreme Court by Colo. Const. art. VI, sec. 5(3).

Rule 4 – Local Policies or Procedures

4.A. - Local Policies - Local policies or procedures may not conflict with Colorado Judicial System Personnel Rules. Employees in the district shall sign an acknowledgement regarding local policies or procedures and the acknowledgement shall be maintained in the personnel records system.

4.B. - Dress Code - Each district shall implement a dress code policy that addresses professionalism, safety in the workplace, and other work-related settings as it relates to the dress code. Employees in the district shall sign an acknowledgement regarding the dress code policy, and the acknowledgement shall be maintained in the personnel records system. It is encouraged that any proposed local policies or procedures be forwarded to the Division of Human Resources for review prior to implementation.

Rule 5 – Review of Personnel Rules

5.A. – Review – These rules may be revised by the Supreme Court as may be needed to aid the administration of the Judicial Department.

5.B. – Personnel Rules Review – The personnel rules shall be reviewed at a minimum annually, and recommendations submitted to the Chief Justice in accordance with procedures established by the State Court Administrator, or designee, and approved by the Chief Justice. Changes to Personnel Rules that occur outside of the standard review period may be updated at any time with the approval of the Chief Justice.

5.C. – Membership – The personnel rules advisory committee shall be composed of eight members who shall be appointed by the Chief Justice: the Human Resources Director who shall serve as chairperson, a Judge or Justice, a Court Executive, a Chief Probation Officer, a Clerk of Court, a certified non-exempt trial court employee, a certified non-exempt probation department employee and the State Court Administrator, or designee.

5.D. – Terms of Members – Initial appointment of members shall be for staggered terms of up to three years. Successive appointments shall be for up to 3 years. The Chief Justice shall appoint members to fill any unexpired terms. Committee appointees may be reappointed.

Rule 6 - Authority & Responsibility for Personnel Administration

6.A. – Authority

6.A.1. – The Chief Justice of the Supreme Court is the executive head of the Judicial Department and the Administrative Authority of the Chief Judges, the State Court Administrator, the Supreme Court Clerk, and the Supreme Court Librarian.

6.A.2. – The Chief Judge of the Court of Appeals shall be the Administrative Authority of the Court of Appeals.

6.A.3. – The State Court Administrator shall be the Administrative Authority of the Office of the State Court Administrator.

6.A.4. – The Chief Judge of each Judicial District shall be the Administrative Authority of all district and county courts within the judicial district, including the probation department within the district, except that the Chief Judge of the Second Judicial District shall have no authority over the Denver County Court; the presiding Judges of the Denver Probate and Juvenile Courts shall have the same authority of a Chief Judge for their respective courts, including Denver Juvenile Probation Department.

6.A.5. – Each Administrative Authority shall be responsible to the Chief Justice and the Supreme Court for all personnel matters for all employees within the jurisdiction.

6.A.6. – The Administrative Authority may delegate responsibility for all personnel matters not otherwise prohibited by constitution, statute, Chief Justice Directive or these rules.

Such delegation need not be in writing so long as the Administrative Authority ratifies the action taken; such ratification is presumed unless the Administrative Authority takes specific action to countermand within a reasonable period of time.

6.A.7. – The Administrative Authority or designee, if any, shall be known in these rules as the Administrative Authority.

6.B. – Responsibilities – Administrative Authorities are responsible for:

6.B.1. – Implementing these rules and complying with the policies contained herein;

6.B.2. – Recruitment, selection and appointment of employees;

6.B.3. – Orientation and training of employees;

6.B.4. – Review and appraisal of each employee's performance in accordance with these rules;

6.B.5. – Corrective or disciplinary action, including termination, in accordance with these rules;

6.B.6. – Maintaining personnel records for all employees in the official personnel file consistent with those documents identified as mandatory by the State Court Administrator's Office.

6.B.6.a. – Records belonging in the computerized personnel files shall be scanned and loaded into the files a minimum of every 15 calendar days.

6.B.6.b. – For the purpose of transferring employee personnel files from one district to another, the district releasing the personnel file shall transfer the official electronic file to the district accepting the employee transfer. If a supervisory file exists, the supervisory file shall be preserved by the Administrative Authority in the district the employee is leaving for a period of five years from the date of transfer. The district accepting the transferred employee shall not receive the original supervisory file, unless a copy is requested. When an employee leaves the Judicial Department, if a supervisory file exists, the supervisory file shall be preserved by the Administrative Authority in the district the employee is leaving for a period of five years after separation.

6.B.6.c. – When hiring an employee from a Colorado State agency other than the Colorado Judicial Department, the district shall accept the transfer of the following documents: I-9, W-4, and documents related to open workers compensation claims, FML, Short Term Disability, Emergency Sick Leave, and any request for accommodation under the ADA, if any. If the Colorado State agency sent the entire personnel file, the remainder of the personnel file shall be returned to the former state agency. When an employee transfers to a Colorado State agency other than the Colorado Judicial Department, the district shall send a copy of the following documents to the other agency: I-9, W-4, workers compensation documents related to open claims and all active FML paperwork or other paid sick leave under any policy, if any. The full personnel file shall remain with the Judicial Department.

6.B.7. – Exercising the powers and fulfilling the responsibilities specified elsewhere in these rules and in other management directives.

PART 2
JOB CLASSIFICATION

Rule 7 - Classification Plan & Staffing Pattern

7.A. –Job Classification Plan

7.A.1. – **General** – The Supreme Court hereby establishes, and the State Court Administrator, or designee, shall maintain, a job classification plan for all positions covered by the personnel rules, which shall establish the qualifications and duties for each job classification, and which shall allocate each position to a job classification having similar qualifications and duties.

7.A.2. – **Job Classification Descriptions** – The State Court Administrator, or designee, shall prepare written descriptions for every job classification in the classification plan. The descriptions shall be based on sound, systematic occupational analysis and position evaluation, and shall contain elements sufficient to distinguish the various job classifications including minimum education and experience, physical demands, and essential functions for each job classification in the job classification plan.

7.A.3. – **Class Title** – The titles assigned by the job classification plan shall be the official titles for every class and position for personnel transactions and budget administration. Working or statutory titles may be used in the day-to-day business of the Judicial Department.

7.A.4. – **Modification of the Job Classification Plan** – The State Court Administrator, or designee, may modify the job classification plan, including but not limited to the addition or abolishment of classifications, changes in job classification titles, and changes in job classification descriptions, at any time following reasonable notice of proposed modifications to all employees serving in positions that would be directly affected by any proposed modifications. The notice shall specify a time in which affected employees may file written comment prior to any decision to adopt the proposed changes. The State Court Administrator, or designee, shall provide reasonable notice to all affected employees of modifications to the job classification plan. An employee who is adversely affected by modifications to the job classification plan may initiate a reclassification appeal under the provisions of Rule 9, except that an employee who is subject to layoff as a result of a decision under this rule shall have no right to appeal or review.

7.A.5. – **Assignment of Duties** – The inclusion of specific essential functions in a job classification description shall not be construed to limit the power of the Administrative Authority to assign other related duties to a specific position, including an at-will position. Whenever there is a permanent and substantial change in the essential functions assigned to a position, the Administrative Authority shall forward to the State Court Administrator, or designee, a request to reclassify the position as outlined in Rule 8.

7.B. – Staffing Pattern – The State Court Administrator, or designee, shall designate the staffing pattern for each location within the Judicial Department, which shall contain the number of full-time and part-time classified positions by position title and job classification, the salary range of each position, the position number and official title, and such other information as the State Court Administrator, or designee, may determine. The State Court Administrator, or designee, may at any time revise the staffing pattern to accommodate changing requirements for administration of the Judicial Department, and may authorize the elimination of positions or job classifications due to lack of work or lack of funds in accordance with Rule 31. All decisions regarding the staffing pattern shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

Rule 8 - Reclassification of Positions

8.A. – Reclassification Authority – Whenever the State Court Administrator, or designee, determines on the basis of investigation and analysis of the essential functions and responsibilities of any existing position, whether filled or vacant, that the position is improperly classified, the State Court Administrator, or designee, may reassign the position to a more appropriate job classification. The State Court Administrator, Administrative Authority or classified employee, may initiate a job classification review for any filled position at any time. The employee occupying the filled position may be required to complete and submit a position classification questionnaire to assist in the review.

8.B. – Request for Job Classification Review for Filled Positions

8.B.1. – Job classification review of any filled position may be requested by the State Court Administrator, Administrative Authority or supervisor who supervises the position, or by any certified or at-will employee who fills the position.

8.B.2. – No such request may be made within 12 months after any job classification decision under Rule 8 concerning the same position, or after a decision by the reclassification review board concerning the same position.

8.B.3. – The request for review shall be in writing and shall be accompanied by a completed position classification questionnaire and shall be accompanied by comments by the supervisor charged with such responsibility, and by the Administrative Authority. The State Court Administrator, or designee, may request additional information, including comment by the immediate supervisor.

8.B.4. – Withdrawals of requests for reclassification may only be made within 30 calendar days from date of submitting the request to the State Court Administrator's Office.

8.C. – State Court Administrator's Action on Requests – The State Court Administrator, or designee, shall submit a written decision to the party requesting job classification review within 90 calendar days after receipt of the request. If the State Court Administrator, or designee, fails to provide a decision within that time, the requesting employee may petition the reclassification review board for appropriate action under Rule 9.

8.D. – Effect of Reclassification Action – For an incumbent in a reclassified position, the individual salary adjustment shall be treated as a transfer, promotion or demotion in accordance with Rule 13. A probationary period is not required for the action of reclassification.

8.E. – Effective Date of Reclassification Action – The effective date of any position reclassification shall be the first working day of the pay period following the approval by the State Court Administrator, or designee, or the ruling by the reclassification review board, except that the effective date may be deferred subject to availability of funds. In no event shall a reclassification be given retroactive effect.

8.F. - Request for Job Classification Review for Vacant Positions - The Administrative Authority, or designee, may submit to reclassify a vacant position to a different job classification at any time. A vacant reclassification request form must be submitted per form guidelines and approved by the State Court Administrator, or designee, prior to the reclassification of the position. The reclassification is effective the date of the vacant reclassification approval.

Rule 9 – Job Classification Appeals

9.A. – Reclassification Review Board

9.A.1. – There is established a Reclassification Review Board, which shall be comprised of five members appointed by the Chief Justice or by the State Court Administrator, or designee: a Trial or Appellate Court Judge who shall act as Chairperson, a Court Executive, a Clerk of Court, a Chief Probation Officer, and a designee of the State Court Administrator who is not an employee of the Colorado Judicial Department.

9.A.2. – In any appeal involving an employee from the court or office of one of the Board Members, the Member shall be disqualified, and the Chief Justice or the State Court Administrator, or designee, if so delegated, shall appoint a temporary replacement to hear the appeal. The temporary replacement shall be of the same job classification as the disqualified member.

9.A.3. – The terms of members of the Board shall be three-year terms, with no more than two terms expiring in any one year. Members may serve unlimited consecutive terms.

9.B. – Right of Appeal – Except as otherwise provided in these rules, an employee who is adversely affected by a modification of the job classification plan, or by a reclassification decision, and any employee whose request for job classification review has not received a timely decision by the State Court Administrator, or designee, under Rule 8.C., may appeal to the Reclassification Review Board.

9.C. – Time Limit – The appeal must be filed within 30 calendar days after official notice is given by the State Court Administrator, or designee, of the modification or reclassification complained of, or within 30 calendar days after the State Court Administrator, or designee, fails to meet the decision deadline under Rule 8.C.

9.D. – Transfer of Jurisdiction – The filing of an appeal of the State Court Administrator's, or designee's, failure to make a timely decision under Rule 8.C. shall transfer jurisdiction for the reclassification review from the State Court Administrator, or designee, to the Reclassification Review Board.

9.E. – Content of the Appeal – The appeal must be made in writing setting forth the reasons why the employee believes the State Court Administrator's, or designee's, decision concerning modification of the job classification plan or concerning reclassification to be in error, or the reasons why the requested reclassification would be appropriate, and shall include appropriate documentation in support of the employee's statement.

9.F. – Appeal Procedure

9.F.1. – The employee shall file a written appeal to the Administrative Authority. Employees seeking review under Rule 8.C. shall file the appeal directly with the Reclassification Review Board.

9.F.2. – Within 10 business days after receipt of the appeal, the Administrative Authority shall transmit the appeal to the State Court Administrator, or designee, along with the Administrative Authority's written evaluation and recommendations concerning the appeal.

9.F.3. – Within 30 calendar days after receipt of the appeal and accompanying documents, the State Court Administrator, or designee, shall submit the appeal and all accompanying documents to the Reclassification Review Board along with the State Court Administrator's, or designee's, evaluation and recommendations and a copy of all information and documentation which were relied on by the State Court Administrator, or designee, in making the decision under appeal. The State Court Administrator, or designee, shall provide a copy of all such materials to the appealing employee.

9.F.4. – The Reclassification Review Board shall review the appeal in summary fashion on the basis of the written material filed by all parties as required by this rule, except that the Board in its discretion may require any party to provide additional written information and may grant oral argument by the State Court Administrator, or designee, and by the appealing employee upon the Board's own motion or upon timely request by either the State Court Administrator, or designee, or the appealing employee. If the Board permits oral argument, each side shall be allowed to argue its position and to answer questions posed by the Board. No other information may be submitted to the Board and the parties shall not have an opportunity for rebuttal. The Board shall have the power to question the parties during oral argument and to request additional information from the parties to assist in its decision.

9.F.5. – The Reclassification Review Board shall make its decision within 30 calendar days of receipt of an appeal, unless oral argument is permitted by the Board, in which case the Board shall make its decision within 30 calendar days after oral argument.

9.F.6. – The decision of the Reclassification Review Board shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

PART 3
COMPENSATION

Rule 10 - Compensation Plan

10.A. – Establishment – The Supreme Court hereby establishes, and the State Court Administrator, or designee, shall maintain, a compensation plan in which each job classification covered by the personnel rules shall be assigned to a salary range based upon relative responsibilities of work, comparability to prevailing rates, and other pertinent salary and economic data.

10.B. – Realignment of Job Classification Salary Ranges

10.B.1. – The State Court Administrator, or designee, may reassign any job classification from one salary range to another salary range based on a study of job relationships, if such realignment is necessitated by changed circumstances. The State Court Administrator, or designee, shall conduct a salary range realignment study on each job classification a minimum of once every 3 years**.** In the event of unusual circumstances, the State Court Administrator may forego the realignment study. The State Court Administrator, or designee, shall determine the schedule of salary range realignment studies. Individual salary adjustments based on range realignments shall be made in accordance with Rule 13.

10.B.2. - **Out of Cycle Salary Range Realignments** – When requested by the State Court Administrator, or designee, an Out of Cycle Salary Range Realignment study may be conducted on a job classification. Individual salary range realignments shall be made in accordance with Rule 13.

The State Court Administrator, or designee, may conduct an Out-of-Cycle Salary Range Realignment in the following situations, subject to the availability of funds:

- Turnover rates in the affected class exceed 30% in a fiscal year;
- Demonstrated difference in mid-point upon initial review performed by the State Court Administrator's Office;
- Significant change in job duties in the affected class.

10.B.3. – The State Court Administrator, or designee, shall provide notification of the results of range realignment studies to employees in the job classification for which the study was completed. Employees may request additional information regarding methodology. Specific salary data used in the study is considered proprietary information and is not able to be disseminated.

10.B.4. – The decisions as to whether to undertake a study, as to the extent and manner of any such study, and as to the outcome of any such study shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

10.C. – Judicial Excellence Awards Program – The State Court Administrator, or designee, shall establish an employee awards program designed to recognize outstanding service.

10.C.1. – **Annual Program** – An official program description and nomination ballot shall be established and administered on an annual basis by the Human Resources Division.

Rule 11 - Appointment Rates

11.A. – New Employees – A person appointed for the first time to a position subject to the Colorado Judicial System Personnel Rules or not reinstated shall be compensated at the minimum of the salary range assigned to the job classification to which appointment is made, except that when justified by unusual conditions or unusual qualifications, and subject to availability of local funds. The Administrative Authority may approve initial compensation at up to 20% above the range minimum and the State Court Administrator, or designee, may approve compensation from 20.01% up to the range maximum based on unusual conditions or unusual qualifications. Any compensation rate offered above the minimum of the range must be an equitable rate commensurate of the qualification of the new employee in comparison with district employee's qualifications in the same job classification.

"Unusual Conditions" are defined as where there is a documented shortage in the market and recruitment or other retention difficulty.

"Unusual Qualifications" are defined as substantial prior job experience at an equivalent or higher level of responsibility when compared to the responsibilities of the new position.

11.B. – Former Employees – A person formerly employed in a position subject to the Colorado Judicial System Personnel Rules, including a person being reinstated within 180 calendar days from the date of separation, shall be treated as a new employee for purposes of establishing initial rate of pay. The compensation upon reinstatement must fall within the compensation range of the job classification to which the employee is returning and be at an equitable rate commensurate of the qualifications of the returning employee in comparison with district employee's qualifications in the same job classification.

11.C. – Current Employees Appointed into a Classified Position – When an employee who is currently occupying a non-classified position is appointed into a similarly situated classified position, the salary of the incumbent employee may be established in the salary range for the assigned job classification at their present salary, except that if the present salary exceeds the range maximum for the job classification, the range maximum shall be assigned. Any compensation rate offered above the minimum of the range must be an equitable rate commensurate of the qualification of the incumbent employee in comparison with district employee's qualifications in the same job classification.

Rule 12 - Salary Computation

12.A. – Annual Pay Plan - Every employee in the classified system and non-classified employees shall be compensated at the appropriate rate established by an Annual Pay Plan. The State Court Administrator, or designee, in consultation with the Supreme Court, shall provide policies and procedures for the yearly computation of annual pay, including compensation upon separation from service, and shall make such policies and procedures available for inspection by any employee. All salary computations must be equitable in compliance with any Federal and/or Colorado State law as applicable. The Annual Pay Plan will be updated on a yearly basis with the effective implementation date of July 1 of each year.

12.B. Reporting for Annual Pay Plan Document - Data used for compensation purposes within the Annual Pay Plan may include salary range realignment data compiled by Human Resources, common policy information from the legislature, and any other pertinent data needed for consideration of the Annual Pay Plan. The State Court Administrator will approve the resources used prior to completion of the Annual Pay Plan distribution.

Rule 13 - Individual Salary Adjustment

13.A. – Pay Advancement

13.A.1. – **Following satisfactory performance** - If an employee's overall job performance rating is acceptable, the employee's salary may be advanced in accordance with the annual pay plan document, within the assigned salary range. Evidence shall be the annual performance appraisal and recommendation of the Performance Management Team.

13.A.1.a. – The salary increase shall be effective according to the annual pay plan document.

13.A.2. – **Following unsatisfactory performance** – If an employee's overall job performance is unacceptable, as substantiated by written evidence, the employee shall not receive a compensation increase until satisfactory performance is achieved as described in Rule 28.E.2 regarding performance probation.

13.A.3. – **Extra Pay** – Employees may receive individual base-building salary adjustments as provided by the "Extra Pay Policy and Procedure" document and with the required approval of the State Court Administrator, or designee, only when the district budget can accommodate the adjustment.

13.A.4. - **In-Range Adjustments** - An Administrative Authority may use these discretionary base building salary adjustments for employees when there is a critical need not addressed by any other pay mechanism. The in-range adjustments are available for classified employees and are subject to availability of funds. These movements are effective first of the month after approval and frequency is limited to one in-range salary movement per employee in a 12-month period. No aspect of granting these movements is subject to review or appeal, except for alleged discrimination. The procedures to report a claim of discrimination can be found in Rule 20.

Unless outlined below in Rules 13.A.4.i-iii, an Administrative Authority must develop a written plan addressing appropriate criteria for the use of any movement based on sound business practice and must include eligibility for adjustment, funding sources, approval requirements within district, and measures to ensure consistent and equitable use. The plan is subject to the availability of funds and must be approved by the State Court Administrator, or designee, prior to implementation. If granted, there must be an individual written agreement between the employee and the Administrative Authority that stipulates the terms and conditions of the movement. Records of any aspect of these movements shall be maintained by the Administrative Authority within the employee's personnel file.

13.A.4.i - **New Hire Adjustment** - Used at the time an employee is hired when performance expectations are unproven and/or funds may be unavailable. This is a one-time base salary increase at the time of the employee's certification as a classified employee. The intent to provide a later salary increase must be documented at the time of hire. This is limited to a one-time increase up to 5% subject to the pay grade maximum. Transfer, promotion, demotion, or separation of the employee will negate the delayed increase.

13.A.4.ii.- **Salary Range Compression** - Used as a salary leveling increase where longer-term or more experienced employees are paid lower in the range for the class than new hires or less experienced employees over a period of time and there is a valid need to increase one or more employee's base salary in the class to recognize contributions equal to or greater than the newly hired or less experienced employees. Justification shall be required based on facts. To be eligible, an employee must be performing satisfactorily as evidenced by the most recent final overall performance rating. The increase may be up to 10% or the maximum and subject to the pay grade maximum.

13.A.4.iii. - **Supervisor Compression Pay** - Supervisor compression pay is used at the Administrative Authority's discretion to alleviate a pay compression issue between supervisors and any subordinate where a supervisor is paid less than, or not more than 4% greater than any subordinate. Compression pay shall be between 4 -12% greater than the highest paid subordinate, but may not exceed the maximum of the current job class pay range for the supervisor.

13.B – Change of Position

13.B.1. – **Transfer** – When an employee is transferred to a new classified or non-classified position, the salary shall be established by the Administrative Authority, or designee, and must be an equitable rate commensurate of the qualification of the transferred employee in comparison with district employee's qualifications in the same job classification. This can include a voluntary reduction in pay if agreed upon by the employee and Administrative Authority. The employee's official Personnel File shall be handled in accordance with the Rule 6.B.6.b.

13.B.2. – **Promotion** – A promotion is defined as a move between job classifications where there is at least a 5% increase from the midpoint of the new job classification as compared to the current job classification.

13.B.2.a. – When an employee is promoted, as defined by these rules, the employee shall receive a minimum promotional increase of 8%, or the new range minimum (whichever is greater) but shall not exceed the range maximum. When justified by unusual conditions or unusual qualifications, and subject to availability of funds, the Administrative Authority may approve a promotional increase from 8-12% above the employee's current salary or up to 20% above the minimum, not to exceed range maximum of the new range. The Director of Human Resources, or designee, may approve a promotional increase which exceeds 20% above the minimum and is more than 12% above the employee's current salary, but not to exceed range maximum of the new range where it is substantiated that unusual conditions or qualifications exist. The new salary must be an equitable rate commensurate of the qualification of the promoted employee in comparison with district employees' qualifications in the same job classification.

"Unusual Conditions" are defined as where there is a documented shortage in the market and recruitment or other retention difficulty.

"Unusual Qualifications" are defined as substantial prior job experience at an equivalent or higher level of responsibility when compared to the responsibilities of the new position.

13.B.3. – **Demotion –** A demotion is defined as a move between job classifications where there is at least a 5% decrease from the midpoint of the current job classification as compared to the new job classification. When an employee is demoted, the employee's pay shall under no circumstances result in an increase and will be adjusted as follows:

13.B.3.a. – **Non-Disciplinary Demotion** – If an employee is demoted involuntarily for non-disciplinary reasons in lieu of layoff, the employee shall be assigned to the new salary range at their present salary, except that if the present salary exceeds the range maximum for the salary range, the range maximum shall be assigned.

13.B.3.b. – **Voluntary Demotion** – When an employee voluntarily demotes to a lower job classification, the salary of the employee in the new position shall be negotiated and in no circumstance may the salary increase. The new rate of compensation shall be within the range of the new salary range.

13.B.3.c. – **Position Downgrade** – A position downgrade is defined as a move between job classifications where there is at least a 5% decrease from the midpoint of the current job classification as compared to the new job classification.

13.B.3.c.i. – **Involuntary Position Downgrade** – If an employee's position is downgraded involuntarily due to range adjustment or reclassification of the position, the employee shall be assigned to the new salary range at their present salary. If the present salary exceeds the salary range maximum for the new job classification, the employee's salary will be frozen.

13.B.3.c.ii. – If the employee's salary after the position downgrade is within the range of the lower salary range, the employee shall be eligible for wage survey increases and performance increases in accordance with these rules.

13.B.3.c.iii. – If an employee's salary has been frozen under Rule 13.B.3.c.i, the employee shall not be eligible for wage survey increases until adjustments of the compensation plan cause the frozen salary to fall within the salary range for the new job classification. The employee may, however, be eligible for pay for performance consistent with the Annual Pay Plan document.

13.B.3.c.iv. – **Voluntary Position Downgrade and Demotion in Lieu of Layoff** – If an employee's position is downgraded voluntarily or for reasons of demotion in lieu of layoff, the employee shall be assigned to the new salary range at their same present salary, except if the present salary exceeds the salary range maximum for the new job classification the salary range maximum shall be assigned. The salary change shall be effective the first of the month following the position downgrade.

13.B.3.d. – **Disciplinary Demotion** – When an employee is demoted as a result of disciplinary action under Rule 29, the employee's salary may be adjusted at the discretion of the Administrative Authority to any salary in the employee's assigned salary range which is lower than the salary at which the employee was paid prior to the disciplinary action. Under no circumstances may a disciplinary demotion result in a salary increase.

13.C. – Range Adjustments from Range Studies – When the salary range assigned to a job classification is increased because of a salary range realignment study, or from an out of cycle range realignment study, the pay of all employees in the job classification shall be increased by the percentage of change from the old range midpoint to the new range midpoint if the difference between midpoints is 5% or greater, subject to the availability of funds.

If the salary range decreases, the salary of the employee will not be adjusted from the employee's current rate. If the employee's present salary exceeds the new salary range maximum, the employee's salary will be frozen and the employee shall not be eligible for wage survey increases until adjustments of the compensation plan cause the frozen salary to fall within the salary range for the new salary range. The employee may, however, be eligible for pay for performance consistent with the Annual Pay Plan document.

13.D. – Simultaneous Personnel Actions – The State Court Administrator, or designee, shall establish procedures for individual salary adjustment when two or more actions affecting pay occur on the same effective date.

PART 4
APPOINTMENT OF EMPLOYEES

Rule 14 – Qualification for Appointment

14.A. – Application to All Classified Employees – All persons hired into positions within the classified system, including both at-will and non-at-will employees, shall meet the qualifications established by the classification plan or as otherwise established in accordance with these rules.

14.B. – Residency - All persons hired into positions within the classified system shall reside in the state or shall reside within 30 miles of the Colorado state border.

Requests for residency exception must be submitted in writing to the State Court Administrator, or designee, and approved prior to appointment of an applicant. A copy of the residency waiver shall be placed in the employee's personnel record. The decision of the State Court Administrator, or designee, shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

14.C - Determination of Qualification – The determination as to whether a person meets the qualifications established by the classification plan for appointment to any position shall be made by the Administrative Authority, after review of the person's academic credentials, work experience, examination results, if any, and other pertinent information.

14.D. – Qualification Exceptions – The State Court Administrator, or designee, may waive qualifications established by the job classification plan and may approve the substitution of alternative qualifications when necessary, and no such waiver or substitution shall be valid unless approved by the State Court Administrator, or designee. A copy of the approved waiver shall be placed in the employee's personnel record. The decision of the State Court Administrator, or designee, shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

Rule 15 - Appointment of Employees

15.A. – Employees of the Supreme Court

15.A.1. – The Clerk of the Supreme Court, the Supreme Court Librarian and the Supreme Court Staff Attorney shall be appointed by the Supreme Court.

15.A.2. – Other employees of the office of the Supreme Court Clerk shall be appointed by the Supreme Court Clerk.

15.A.3. – Other employees of the Supreme Court library shall be appointed by the Supreme Court Librarian with the approval of the Clerk of the Supreme Court.

15.B. – Employees of the Court of Appeals

15.B.1. – The Clerk of the Court of Appeals, the Chief Staff Attorney and the Reporter of Decisions shall be appointed by the Chief Judge of the Court of Appeals with input and feedback from the Court of Appeals' bench.

15.B.2. – Other employees of the office of the Clerk of the Court of Appeals shall be appointed by the Clerk of the Court of Appeals with approval of the Chief Judge.

15.B.3. – Other employees of the Reporter of Decisions shall be appointed by the Reporter of Decisions with approval of the Chief Judge.

15.B.4. – Other employees of the office of Staff Attorney of the Court of Appeals shall be appointed by the Chief Staff Attorney with approval of the Chief Judge.

15.C. – Employees of the Office of State Court Administrator – Pursuant to the Colorado Constitution (Article VI, Section 5(3)), the State Court Administrator shall be appointed by the Supreme Court. The employees of the office of the State Court Administrator shall be appointed by the State Court Administrator, or designee.

15.D. – Employees of the Trial Courts

15.D.1. – Court Executives shall be appointed by the Chief Judge with input and feedback from the bench. Clerks of the District Court, including clerks of special courts, shall be appointed by the Chief Judge with input and feedback from the district court bench.

15.D.1.a. – Court Executives for Denver Juvenile and Denver Probate Court will be appointed by the Presiding Judge with input and feedback from the bench.

15.D.2. – Clerks of the County Court shall be appointed by the Chief Judge with input and feedback from the county court bench.

15.D.3. – Clerks of Combined District and County Courts shall be appointed by the Chief Judge with input and feedback from the district and county court benches.

15.D.4. – Pursuant to chapter 35 of the Colorado Rules of Civil Procedure, Magistrates shall be appointed by the Chief or Presiding Judge; Water Referees shall be appointed by the Water Judge from a list of not less than three qualified persons to be submitted to the Water Judge by the Executive Director of the Department of Natural Resources.

15.D.5. – Employees of the Clerk's Office shall be appointed by the Clerk of Court, and/or designee, with the approval of the Court Executive, and/or the Chief Judge. Other trial court employees shall be appointed by the Court Executive, with approval of the Chief Judge.

15.D.6. – Pursuant to section 13-71-106, 6A C.R.S. as amended, Jury Commissioners for each county shall be appointed by the Chief Judge of the judicial district in which the county is located.

15.E. – Probation Departments

15.E.1. – Chief Probation Officers shall be appointed by the Chief Judge with input and feedback from the district's bench.

> **15.E.1.a.** – The Chief Probation Officer for Denver Juvenile Probation will be appointed by the Presiding Judge of Denver Juvenile Court with input and feedback from the bench.

15.E.2. – Other employees of the probation department shall be appointed by the Chief Probation Officer, with the approval of the Chief Judge.

Rule 16 - Selection System

16.A. – Application Process

16.A.1. – **Determination** – The State Court Administrator, or designee, shall determine which classes of positions in the Judicial Department require the acceptance of applications to establish eligibility for appointment or promotion, and shall establish rules for the application process.

16.A.2. – Announcement

16.A.2.a. – The State Court Administrator, or designee, shall announce all scheduled application processes, and shall include sufficient information to identify the job classification for the application process commencement, the qualifications for eligibility for the application process, and any pertinent or required time limits.

16.A.2.b. – The State Court Administrator, or designee, shall advertise application processes by posting in such places approved by the State Court Administrator, or designee.

16.A.2.c. – When any substantial change is made in a job announcement of an application process, the State Court Administrator, or designee, shall notify current applicants of the change. The announcement shall be modified accordingly.

16.A.3. – Eligibility

16.A.3.a. – The State Court Administrator, or designee, shall determine the educational and experience qualifications for eligibility for the application process, and a person shall be eligible to submit an application for that job classification if the person meets those educational and minimum qualifications.

16.A.3.b. – The State Court Administrator, or designee, may waive the established minimum qualifications and may approve substitution of alternative qualifications. The determination as to whether the qualifications have been met or whether alternative standards may be accepted shall be made by the State Court Administrator, or designee, upon recommendation by the Administrative Authority.

16.A.3.c. – The State Court Administrator's, or designee's, decision as to such qualifications, waiver and substitution shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

16.A.3.d. – **Veteran's Preference** – In the recruitment application screening process, a military veteran's preference will be awarded to applicants who are separated under honorable conditions and who, other than for training purposes, served in any branch of the armed forces of the United States during any period of any declared war, any undeclared war, other armed hostilities against an armed foreign enemy, or served on

active duty in any such branch in any campaign or expedition for which a campaign badge is authorized. Veterans shall receive preference in the application screening. If a numeric scoring is used, a minimum 5 point increase shall be added to the total numeric score. If no numeric score is used, the applicant shall be added to the interview eligible list.

16.A.3.d.i. – Applicants who, because of disability incurred in the line of duty, are receiving monetary compensation or disability retired benefits by reason of public laws administered by the Department of Defense or the Veterans Administration, or any successor thereto, are entitled to 10 points or preferential treatment pursuant to 16.A.3.d.; or

16.A.3.d.ii. – Applicants who are the surviving spouse of any person who was or would have been entitled to additional points under section 16.A.3.d. or 16.A.3.d.i., or who is the surviving spouse of any person who died during such service or as a result of service-connected cause while on active duty in any such branch, other than for training purposes, are also entitled to 5 points or preferential treatment pursuant to 16.A.3.d.

16.A.3.d.iii. – To confirm the validity of veteran status and receive preferential treatment, applicants must provide a certificate from the department of defense or of the veteran's administration, such as DD214 documentation, at the time the initial application is submitted. An applicant requesting the veteran's preference as a spouse pursuant to 16.A.3.d.ii. must provide the certificate of the department of defense or of the veteran's administration, or any successor thereto, for the applicant's former spouse as conclusive proof of death incurred in the line of duty during such service. In addition, the applicant requesting veteran's preference as a spouse must provide proof that he or she was the legally recognized spouse of the veteran. If an applicant fails to provide documentation to support their entitlement to veteran's preference, the applicant will not receive the preference. The applicant must provide the documentation while the vacancy is open.

16.A.3.d.iv. – Applicants are entitled to up to 10 total points for veteran's preference. An applicant may qualify for more than one type of veteran's preference, but the total number of points given to an applicant shall not exceed 10 points.

16.A.4. – **Applications**

16.A.4.a. – All applications shall be submitted electronically using an applicant tracking system approved by the State Court Administrator, or designee. The State Court Administrator, or designee, may reject any application submitted in any other form, unless the application is submitted as an approved accommodation.

16.A.4.b. – An applicant's signature on the application, or electronic signature if the application is submitted electronically, shall constitute certification that to the best of the applicant's knowledge, all information entered on the application is true.

16.A.4.c. – An application must be submitted within the time specified in the announcement, except that at the discretion of the State Court Administrator, or designee, a late application may be accepted upon a finding of reasonable justification.

16.A.5. – **Comparative Analysis Process**

16.A.5.a. – The State Court Administrator, or designee, shall establish a comparative analysis process based on objective criteria in which to evaluate candidates based on the job elements of the class for which the analysis is conducted.

16.A.5.a.i. – In determining the content of the comparative analysis, the State Court Administrator, or designee, shall ensure that the analysis and criteria does not create an additional advantage or disadvantage for applicants from protected groups beyond what is required by the job elements themselves.

16.A.5.b. – In determining the content of the comparative analysis, the State Court Administrator, or designee, may consult with Judges and appropriate court personnel and may establish advisory committees to assist in the determination of the analysis process.

16.A.5.c. – The State Court Administrator's, or designee's, determination of the comparative analysis process shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

16.A.6. – **Conduct –** The comparative analysis process shall be conducted in accordance with the rules and procedures to be established by the State Court Administrator, or designee.

16.A.7. – **Confidentiality –** The comparative analysis process materials and results shall be confidential and shall be so handled in accordance with P.A.I.R.R.

16.B. – Discretionary Testing and Interviews

16.B.1. – **Determination** – An Administrative Authority may in its discretion require testing and/or interviews for any job classification to assist in the determination of fitness to perform competently in the job classification.

16.B.2. – **Content**

16.B.2.a. – Discretionary testing and/or interviews may be written or oral, or a combination of both.

16.B.2.b. – Administrative Authorities may prepare or select their own testing and/or interview material, except that the State Court Administrator, or designee, may provide standardized written testing and/or interview material, and may require the use of such standardized material by Administrative Authorities as needed.

16.B.2.c. – The State Court Administrator, or designee, may provide lists of questions to serve as guides for boards conducting discretionary testing and/or interviews.

16.B.2.d. – The content of discretionary testing and/or interviews shall be based on the job elements of the job classification for which the testing and/or interviews are conducted.

16.B.2.e. – Administrative Authorities shall maintain a copy of all written testing and/or interviews that they have prepared or selected, and shall submit a copy to the State Court Administrator, or designee, upon request.

16.B.2.f. – All decisions as to content of discretionary testing and/or interviews shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

16.B.2.g. – Testing shall be conducted in accordance with procedures established by the Administrative Authority to meet the personnel needs of the Administrative Authority's jurisdiction.

16.B.4. – **Interviews**

16.B.4.a. – If an interview is held for a position, the Administrative Authority, or designee, shall select a panel of qualified interviewers.

16.B.4.b. – When an interview is announced as limited to the best qualified applicants determined by preliminary screening or testing, admission to the interview may be restricted to the top-ranking applicants.

16.B.4.c. – The Administrative Authority shall prepare lists of questions to serve as guides for boards conducting interviews, except that the Administrative Authority may use lists of questions prepared by the State Court Administrator, or designee.

16.B.4.d. – The interview board shall rank applicants according to qualifications and suitability for the position, indicating applicants considered not qualified.

16.B.4.e. – If a panel of interviewers is selected, the Administrative Authority, or designee, shall make a reasonable effort to select qualified interviewers that embody a diverse demographic makeup, including employees from protected groups, without overburdening particular employees with additional responsibilities.

16.B.5. – **Confidentiality** – Interview materials and results shall be confidential and shall be so handled by all persons who have access to the material.

16.C. – Selection Process – The State Court Administrator, or designee, and Administrative Authority shall maintain records of any testing and/or interviews that may be given, including test results, applications and test papers for each applicant, names of interviewers, summary data on number of applicants and test results and such other information as the State Court Administrator, or designee, may deem pertinent, for a period of 3 years from the date of testing and/or interviews.

Rule 17 - Employment Eligibility Lists

17.A. – Establishment of Eligibility Lists

17.A.1. – Administrative Authorities may establish an employment eligibility list for a position that is vacant or is anticipated to become vacant, and that has been advertised in accordance with provisions of Rule 18.

17.A.2. – An employment eligibility list shall consist of the names of persons who have been evaluated and have been found to meet the qualifications of the position for which they have applied, and shall show the name of the person, the last known address, the position for which eligibility has been established, and the date eligibility was established.

17.A.3. – An eligibility list shall be valid for 10 months from the closing date of the job posting. With the approval of the State Court Administrator, or designee, an eligibility list may be extended once for up to 120 calendar days for good cause. Reasons for extending an eligibility list may include, but are not limited to, such issues as the continued availability of qualified candidates on the list; the critical need to fill a vacancy when there is insufficient time to conduct an examination and there are qualified applicants on the list; and the size of the original qualified applicant pool.

17.A.4. – If an eligibility list is generated, it must be submitted to the Director of Human Resources within 60 calendar days from the closing date of the position announcement. The Director of Human Resources may grant a one-time 30 calendar day extension for submitting an eligibility list to Human Resources.

17.B. – Use of Eligibility Lists

17.B.1. – When a vacancy occurs in the position for which the eligibility list was established or in another position in the same job class in the same district, it may be filled from applicants on the eligibility list without further examination or evaluation of credentials and without advertising the position.

17.B.2. – The Administrative Authority may at any time pass over any applicant on the eligibility list who fails to respond to an official communication from the Administrative Authority, or designee.

17.B.3. – Nothing in this rule shall require the hiring from an eligibility list, nor shall it preclude an Administrative Authority at any time from advertising or re-advertising a position that is vacant or anticipated to become vacant.

Rule 18 - Recruitment & Filling Positions

18.A. – Recruitment

18.A.1. – **Announcing Vacancies** – When a vacancy exists or is anticipated in any classified position, the Administrative Authority shall notify the State Court Administrator, or designee, who shall announce the vacancy using the official electronic recruitment system for a minimum period of 5 calendar days in accordance with procedures to be established by the State Court Administrator, or designee. No announcement is required if the position is being filled from a classified position eligibility list established in accordance with provisions of Rule 17, if the vacancy will be used to increase the FTE of a current part-time classified employee in the same job class or if a decision is made not to fill the position. Mailed applications accepted as an approved form of accommodation must be postmarked by the closing date and time of the job announcement. Electronic applications must be submitted by the closing date and time of the job announcement unless posted as open until filled in accordance with provisions established below.

18.A.2. – **Open Until Filled, Promotional and Transfer Only Announcements**

18.A.2.a. – **Open Until Filled** – When requested by the Administrative Authority, a vacant position may be posted as "open until filled."

All vacancy announcements designated as "open until filled" shall include a date of first review. The date of first review may not be less than 5 calendar days from the date of announcement as indicated on the official electronic recruitment system. All applications received by the date designated as the date of first review must be reviewed.

At such time that the position is filled, the Administrative Authority, or designee, must close out the announcement and notify unsuccessful applicants.

18.A.2.b. - **Promotional Only** - When requested by the Administrative Authority and approved by the State Court Administrator, or designee, a position which requires Colorado Judicial Department experience may be designated and announced as "promotional only", in which case only a person who is currently employed by the Judicial Department, either in a classified or contract position, or who is eligible for reemployment shall be considered.

18.A.2.c. – **Transfer Only** – Only employees in good standing and in the same job classification are eligible to apply for the posted position. An eligibility list may be created from the posting.

18.A.3. – **Equal Employment Provisions**

18.A.3.a. – **Recruitment of Protected Groups** – Positive efforts by the Administrative Authority and the State Court Administrator, or designee, shall be made in recruitment to advertise employment opportunities to protected groups and to agencies specializing in

the placement of protected group members, and to seek out, contact, and employ qualified members of protected groups.

18.A.3.b. – **Advertisement** - At a minimum, such recruitment efforts shall include local posting and may also include use of media outlets that reach protected and underrepresented groups, and posting through professional affiliation groups for protected groups.

18.A.4. – **Promotional Only within a District (Competitive Reclassification)** – Upon approval of the State Court Administrator, or designee, an Administrative Authority may post a position in the Judicial Department job announcements as "promotional only within the judicial district." "Promotional only within the judicial district" announcements shall only be used in instances where the Administrative Authority intends to reclassify a currently filled position utilizing the competitive process that allows more than one employee to compete for the opportunity to be reclassified.

18.B. – Appointment and Career Opportunities

18.B.1. – Appointment to all classified positions shall be made from the top 3 applicants for the position as determined by a review of the qualifications of each applicant.

18.B.2. – **Criminal History Checks**

18.B.2.a. – All classified employees, contract employees, interns and volunteers shall be subject to a criminal history check by the Human Resources Division and must be deemed "suitable" prior to starting in the position per the Criminal History Check procedures promulgated by the State Court Administrator. A criminal history check shall not be requested nor performed until the district determines that an individual is a final candidate. All offers of employment are contingent upon issuance of a "suitable" determination on the criminal history check. All offers of employment must be made in writing following the "suitable" determination. All classified employees who receive a promotion, demotion, or transfer to another court, probation department or division shall be subject to a criminal history check before being offered the new position if a criminal history check has not been completed within the last 5 years. Any promotion, demotion, or transfer to another court, probation department or division within the Judicial Department is dependent upon the employee's entire criminal history being identified as suitable for the new position, as determined by the Administrative Authority. The Judicial Department reserves the right to conduct a criminal history check at any time for business reasons.

18.B.2.b. - Criminal history check suitability determinations shall be made by an authorized member of the Human Resources Division. There shall be three determination categories:

- Category 1: "Suitable" determinations shall be considered recommendations and left to the Administrative Authority's discretion whether to hire the individual.

- Category 2: “Not Suitable” determinations shall be considered final decisions in the hiring process but may be appealed by the Administrative Authority, individual, or designee, to the Director of the Human Resources Division.
- Category 3: “Not Required” determinations shall be rendered when a criminal history check is deemed not required at that time.

18.B.2.c. – If an individual is deemed “Not Suitable”, they are ineligible for employment.

18.B.2.d. – All criminal history checks for employment, or any criminal history check performed on current employees, may only be conducted by an authorized member of the Division of Human Resources.

18.B.2.e. – Confidentiality – Criminal history checks forms and results shall be maintained as confidential by all persons who have access to the material.

18.B.3. – **Family Relationships** - No applicant may be appointed to a position in the Judicial Department if a member of the applicant's family:

18.B.3.a. – Would directly or indirectly exercise supervisory, appointment, or dismissal authority or be in a position to take disciplinary action over another family member;

18.B.3.b. – Would audit, verify, receive or would be entrusted with monies received or handled by another family member;

18.B.3.c. – Would have access to the employee’s confidential information, including payroll and personnel records.

18.B.4. – For the purposes of Rule 13.B.3. of this rule, a family member is a husband, wife, domestic partner (as defined in Rule 36), parent, child (including adopted), brother, sister, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, or nephew.

18.B.5. – No employee shall be hired into the classified system in excess of the number of full-time equivalent positions designated in the staffing pattern, or outside the job classes or salary ranges designated by the personnel job classification plan.

18.B.6. – No employee shall work in a classified or contract position, or any combination thereof, in excess of one full-time equivalent (1.0 FTE) position.

18.B.7. – All employees, volunteers, and interns shall be required to complete an application and policy acknowledgement checklist prior to the completion of the first day of work.

18.C. – Transfer

18.C.1. – A certified employee within the classified system established by these rules who wishes to transfer to a position advertised to be filled in another district may apply for transfer to the vacant position. Transfer requests shall be made in writing and shall include a Judicial Department application. Requests shall be sent to the Administrative Authority filling the vacancy and must be received by the Administrative Authority on or before the closing date for the position. Transfer requests shall be considered before consideration of outside applicants.

18.C.2. – The Administrative Authority shall review the credentials of the employee(s) requesting transfer, including any resume or application, personnel file, professional development accomplishments, and references from the transferring location. In addition, the employee requesting the transfer must notify the hiring Administrative Authority of any past corrective or disciplinary actions. Oral and written examinations may be conducted to assist in the transfer decision and should be used in cases where there is more than one transfer request.

18.C.3. – After appropriate consideration, the Administrative Authority shall advise the employee seeking transfer of the decision in writing. The decision of the Administrative Authority shall be final, and not subject to the appeal or review procedures set forth in these rules.

18.D. – Reinstatement of a Former Certified Employee - The Administrative Authority may rehire a former certified employee into the same job classification the employee was assigned at date of separation and provided that the employee was in good standing at date of separation. The employee must be reinstated within 180 calendar days after separation. Requests for reinstatement shall be sent to the Administrative Authority filling the vacancy and must be received by the Administrative Authority on or before the closing date for the position. Employees requesting a reinstatement to a closed posting, if reinstatement qualifications have been met, can request to be placed on the eligibility list. In cases where an eligibility list has been created, an employee may request to be placed on the eligibility list as a reinstatement, if reinstatement qualifications have been met.

Rule 19 - Probationary Period

19.A. – Probationary Status

19.A.1. – A newly-appointed, non-at-will employee shall serve a one-year probationary period commencing on the date of employment into the classified position to which the employee is appointed, except that the appointment of a current certified employee to a different, non-at-will position within the classified system, whether by promotion, demotion or transfer, shall not be governed by this rule.

19.A.2. – An at-will employee moving to a non-at-will position within the classified system shall serve a one-year probationary period in the new position.

19.A.3. – A newly appointed employee from another state agency shall serve a one-year probationary period commencing on the date of employment with the Colorado Judicial Department.

19.B. – Performance Appraisal

19.B.1. – At the conclusion of the probationary period, the employee shall be given a performance appraisal by the supervisor in accordance with Rule 28.C.. However, only one performance appraisal is needed in the first year of employment. If an appraisal is completed prior to end of the probationary period and the supervisor is still in agreement with the evaluation at the end of the probationary period, no further evaluation is necessary.

19.B.2. – At the conclusion of the probationary period, if the employee has received a Rule 19.B.1. performance appraisal with an overall rating of 2.76 or above, the employee shall be certified in the class and shall be notified of such certification. At-will employees are not eligible to be certified in the position.

19.B.3. – If the employee receives a Rule 19.B.1. performance appraisal with an overall rating of 2.75 or below, the employee shall not be certified and shall be terminated in accordance with Rule 19.C.

19.B.4. – Nothing in this rule shall preclude the appraisal of performance of a probationary employee prior to the completion of the full probationary period, but in no event may an employee be certified until the completion of one year of employment. One year shall be considered the same calendar date of the following year, unless that date occurs on a holiday or weekend, then the following business day at 5:00 p.m. the employee will become certified.

19.C. – Termination

19.C.1. – An employee on probationary status is an at-will employee who may be terminated with or without cause at any time during the probationary period and shall be terminated in the event of a score of 2.75 or below on the performance appraisal under Rule 19.B.3.

19.C.2. – The probationary employee shall have no right of a pre-termination meeting under Rule 29.C.5.

19.C.3. – The decision to terminate a probationary employee shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

PART 5
EMPLOYEE RELATIONS

Rule 20 – Employee Conduct Policies

20.A. – Provisions Common to All Employee Conduct Policies

20.A.1. – **Eligibility**- The policies and provisions contained in Rule 20 control the conduct of all Judicial Department employees, consistent with Rule 3. All employees, contract employees, interns (paid and unpaid), and volunteers of the Judicial Department must comply with the policies found in Rule 20.

20.A.2.- **Violation**- Violation of any policy and failure to comply with any policy found in Rule 20 may result in corrective or disciplinary action, which may include any disciplinary action penalty found in Rule 29.C. up to and including termination of employment. Any violation or appearance of a violation of any policy found in Rule 20 shall be promptly reported to any of the following persons for filing a report or complaint: the person's own supervisor or any other supervisor, the Court Executive, the Chief Probation Officer, Chief Judge of the court, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

20.A.3. – **Retaliation** - Retaliation is a serious violation of Rule 20. Retaliation against any individual who has filed a report or complaint, witnessed a violation of any policy listed herein, and/or assisted or participated in any manner in an investigation/inquiry, proceeding, or hearing pursuant to a policy or provision of Rule 20 will not be tolerated. Reports of retaliation are taken seriously and may be the subject of a separate investigation. Any act of retaliation may result in appropriate corrective or disciplinary action, which may include termination of employment.

20.B. - Anti-Harassment and Anti-Discrimination Policy

20.B.1. – **Purpose** - The Judicial Department will not tolerate, condone or allow harassment by any employee of the Judicial Department, contract employees, volunteers, interns, judicial officers, customers, or any other individual conducting business at or with the Judicial Department. All employees are encouraged to report any violations of this policy. Supervisors are required to report any violations of this policy pursuant to the Complaint Procedure found at Rule 20.B.3. This policy prohibits conduct or communication that is harassing or discriminatory in the workplace or during any work-related activity, but an employee, contract employee, volunteer, intern or judicial officer may violate this policy if they engage in conduct or communication that is harassing or discriminatory and that conduct or communication impacts the workplace in any way, including through social media. Judicial officers are subject to the provisions of Chief Justice Directive 08-06 Concerning Colorado Judicial Department Policies for Independent Contractors, Other Persons Conducting Business with the Judicial Department and Judicial Officers.

20.B.2. – **Definitions**

20.B.2.a. – **Harassment_**—Any unwelcome or offensive conduct, verbal or physical, based on a person's race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability if such conduct adversely affects that person's work performance or employment status, or otherwise creates an intimidating, hostile or offensive work environment. Examples of prohibited conduct include: derogatory comments, remarks, gestures, or jokes, including the same contained in electronic communications and media, relating to a person's race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability, racial or ethnic slurs, and negative epithets.

20.B.2.b. - **Sexual Harassment** — Any type of unwelcome or offensive conduct based on an individual's sex, whether or not the conduct is sexual in nature, where: 1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion or other aspects of employment; or 2) this conduct unreasonably interferes with a person's employment or creates an intimidating, hostile or offensive work environment.

Examples of prohibited sexual harassment include: derogatory comments, remarks, gestures or jokes about a particular sex; demands for sexual favors in exchange for favorable treatment or continued employment; unwanted sexual advances or propositions; unwelcome touching; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; repeated sexual comments, sexual gestures, sexual jokes, leering, whistling, or other verbal abuse of a sexual nature; the display in the workplace of sexually suggestive objects or pictures; and using electronic media and communications to send or receive sexually suggestive messages and/or images.

20.B.2.c. – **Discrimination** — Any treatment or distinction in favor of or against a person based on the person's actual or perceived race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability. Discrimination also includes treating someone unfavorably because the person is married to or otherwise associated with a person of a certain race, color, national origin, gender, age, sexual orientation, gender identity, religion, socioeconomic status or disability.

20.B.3. - **Complaint Procedure**

20.B.3.a. - **Reporting** – Any violation or appearance of violation of this policy shall be promptly reported to any of the following individuals for filing a report: the person's own supervisor or any other supervisor; the Court Executive; the Chief Probation Officer; Chief Judge of the District, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

20.B.3.b. - **Form of the Report** – The initial report may be either written or verbal. Written reports should include the date, time, location, and a description of the event or behavior

complained of, and the names of the parties involved and of any witnesses. A written report should be signed by the complaining party ("complainant"). The recipient of a report, written or verbal, must provide copies of, or a summary of, the report (marked personal and confidential) to 1) the Chief Judge, Court Executive, or Chief Probation Officer, and/or 2) to the Human Resources Division of the State Court Administrator's Office. If the report alleges a violation by the Chief Judge, a Judicial Officer, the Court Executive, or the Chief Probation Officer, a copy shall be provided to the Human Resources Director of the State Court Administrator's Office.

20.B.3.c. - **Confidentiality** – All reports of harassment and/or discrimination shall be kept in confidence as much as possible, but there is no guarantee of confidentiality for any report of harassment and/or discrimination. The investigator will share information regarding the report only as necessary to investigate the report, and the information related to a report pursuant to this policy may be shared as needed to respond to any legal and/or administrative proceedings arising out of or relating to the report. All reports of harassment and/or discrimination, and the outcome and findings resulting from any investigation thereof are to be kept in accordance with Rule 2: Public Access to Administrative Records of the Judicial Branch.

If a report of harassment and/or discrimination is made against a Judge or Justice, the Human Resources Division of the State Court Administrator's Office shall confer with the Colorado Commission on Judicial Discipline regarding the report and the allegations made. The Human Resources Division of the State Court Administrator shall, at the request of the Colorado Commission on Judicial Discipline, provide information regarding the reporting party or parties and witnesses.

20.B.3.d. - **Investigation** - Reports of harassment and discrimination from employees shall be referred to the Human Resources Division of the State Court Administrator's Office for investigation. In some instances, an initial inquiry will be completed as a preliminary review by the Human Resources Division to determine whether a full investigation is needed. A full investigation, at a minimum, will include conferences with the complainant, the alleged perpetrator, and any witnesses to the incident. Any party involved in a harassment complaint may submit any documentation they believe to be relevant to the matter at issue to the investigating authority.

If a report of harassment and/or discrimination is made against a Judge or Justice, the Human Resources Division of the State Court Administrator's Office shall, at the request of the Colorado Commission on Judicial Discipline, provide transcripts of the conferences and copies of documentation provided by any party involved to the Colorado Commission on Judicial Discipline.

20.B.3.e. - **Recommendations and Penalties** – The Human Resources Division of the State Court Administrator's Office will make findings and will recommend appropriate action to resolve the matter to the Administrative Authority. Such action may include, but is not limited to, mediation, education, corrective and/or disciplinary action for employees, up to and including termination of employment. Any investigation resulting in a finding that

a person has maliciously or recklessly made false accusations against another may subject the reporting party to corrective and/or disciplinary action, up to and including termination of employment.

20.B.3.f. - **Notice of Status of Investigation** – The complainant will be advised when the investigation has been completed. If no information has been provided to the complainant within 45 days of the initial report of the complaint, the complainant may contact the Director of the Human Resources Division. The Human Resources Division will determine the status of the investigation, will begin its own investigation if necessary, and will provide a status report to the complainant. When the investigation has been completed, the investigator will notify the complainant. Investigation findings are not subject to appeal or review procedures set forth in these rules. At the discretion of Human Resources, the accused may also be notified when the investigation is complete.

20.C. - Code of Conduct

20.C.1. – **Purpose** – It is essential to the proper functioning of the State that all employees of the Judicial Department observe high standards of conduct to maintain professionalism in the workplace and public confidence in the integrity and independence of the judicial system. Judicial Department employees must discharge their duties in a manner that creates confidence ensuring the judicial system is fair and impartial; court decisions, rules, and policies are made through established procedures; and Judicial Department employees will not misuse their positions to obtain unauthorized benefits. Judicial Department employees must foster respect and credibility within the Judicial Department and within the communities in which they work by adhering to high standards of conduct in the areas of customer service, job performance, personal integrity, professional responsibility, and by avoiding not only impropriety but the appearance of impropriety.

20.C.2. – **Confidential Information** – An employee shall not:

a) Disclose or use confidential information acquired during the performance of job duties for any purpose not connected with official duties. Confidential information includes, but is not limited to, information relating to pending cases that is not a matter of public record including, without limitation, the communications and work product of any judicial officer, law clerk, staff attorney, or other employee;
b) Disclose to any unauthorized person for any purpose any confidential information acquired during the course of employment, or knowingly acquired through unauthorized disclosure of another; or
c) Comment publicly or express personal opinions about a case or matter before the court to any person not an employee of the Judicial Department except in the performance of official duties.

20.C.3. – **Conflicts of Interest** – An employee shall not:

a) Solicit or accept any fee, compensation, gift, payment or expenses, or any other thing of monetary value under circumstances in which the acceptance may appear to improperly influence the employee's job performance or the integrity of the courts. This provision shall not include the receipt of any gifts of historical or significant value donated by any person or group for the benefit of the court system provided such gift is received on behalf of the courts by the appropriate designated authority;
b) Use authority or influence to secure anything of value for private gain, including using or attempting to use the employee's position, or the prestige of judicial affiliation, to secure an unwarranted privilege, advantage, or exemption for the employee or others;
c) Use state time, property, equipment or resources for private gain including, without limitation, accessing court or probation records for non-official or personal purposes;
d) Use undue influence to gain, or attempt to gain, personal advantage or advantage for a family member or friend before the courts. A Judicial Department employee shall not influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the court in a manner that improperly favors any litigant or attorney, nor shall a Judicial Department employee imply that he or she is in a position to do so;
e) Obtain a contract with the Judicial Department in which the employee, a member of the employee's family, or a business, organization, or person with which the employee is associated has an interest, unless granted in the same manner applied to other interested contractors;
f) Contract for services with defendants or probation clients;
g) Attempt to influence an official decision of the Judicial Department from which the employee, a family member, or a business or organization with which the employee is associated may derive a benefit; or
h) Engage in any activity or business, which creates a conflict of interest or has an adverse effect on the confidence of the public in the integrity of the judicial system.

20.C.4. – **Standards of Conduct (On and Off Duty as applicable)** – Employees shall:

a) Uphold the constitutions and laws of the United States of America and the State of Colorado;
b) Serve the public with respect, concern, courtesy and responsiveness in the performance of all job duties providing procedural assistance as needed without giving legal advice;
c) Demonstrate high standards of professionalism in the workplace that includes interacting with the public, co-workers and management in a civil, courteous, and respectful manner;
d) Demonstrate the highest standards of personal integrity, truthfulness, and honesty;
e) Uphold state-wide and local policies and procedures including providing full cooperation, candidness, and truthfulness when participating in an internal investigation of wrongful conduct;
f) Use state resources, time, property and funds prudently and in accordance with prescribed procedures and local policies including limiting personal use of the internet, electronic communications, media and applications while on the Judicial Department computer network, consistent with CJD 07-01, Electronic Communications Usage Policy,

and limiting the personal use of personal cell phones and personal electronic media devices while on work time;

g) Perform all duties without favoritism and without improper influence by family, social or other relationships. Avoid any involvement in the processing of any matter before the courts or probation in which the employee has a personal, business or family interest and immediately inform the Administrative Authority of the existence of such conflict of interest;
h) Behave in a manner that promotes public confidence in the integrity and impartiality of the judicial system;
i) Avoid impropriety or any activity that gives the appearance of impropriety;
j) Avoid any activity that would appear to lend the prestige of the court to advance the private interests of the employee or others; and
k) Promote the integrity of the court record.

20.C.5. – **Outside Activities** – Employees shall conduct any activities outside normal working hours in a manner as to avoid any negative impact on the courts and/or the employee's ability to perform assigned duties. If an outside activity involves regular appearances or interactions with the courts, or if the activity concerns the law, the legal system or administration of justice, the employee shall first consult with the Administrative Authority to determine whether the proposed activity is consistent with this provision. Any volunteer activities and outside employment must be approved pursuant to Rule 22.B.

20.C.6.– **Improper Use of Judicial Department Applications** – Any use of Judicial Department applications that is not related to an employee's performance of their job duties is an improper use of Judicial Department applications and a violation of the Rule 20.C. For the purpose of this provision, Judicial Department applications is defined as any application created or maintained by the Office of the State Court Administrator's Information Technology Division, and which contains information used by Judicial Department employees to maintain and access the records of the Judicial Department related to court and probation customers, or Judicial Department employees. Employees are strictly prohibited from using Judicial applications, including JPOD and Eclipse, to access information for which they have no legitimate business purposes including information related to court cases or probation records for individuals with whom an employee has a personal relationship, such as spouses or family members, or on individuals who are well known to the public, whether the information is publicly available or not.

20.C.7. – **Reporting Requirements** – Any violation or appearance of a violation of this policy shall be promptly reported to any of the following persons for filing the complaint: the person's own supervisor or any other supervisor, the Court Executive, the Chief Probation Officer, Chief Judge of the court, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

20.D. – Drug Free Workplace Policy

20.D.1. – **Purpose** - The Judicial Department has a vital interest in maintaining a safe, productive and efficient working environment for its employees, clients, and the public. Employee performance impeded by alcohol or other drugs, including prescription and non-prescription medications, can have a negative impact on the efficient operation and integrity of the courts and

probation departments and may pose safety and health risks. This policy is enacted to address those issues in compliance with the provisions of the Drug-Free Workplace Act of 1988 as well as these Rules.

20.D.2. – **Policy** - To ensure a safe, effective, productive, and efficient working environment, as well as to comply with federal and state law, it is the policy of the Judicial Department that all employees of the Judicial Department are prohibited from using or being under the influence of alcohol, illegal drugs, including state authorized marijuana, or any medically unauthorized prescription drugs while at any Judicial Department work site, state owned parking lot, at any off-site location during work related activities or other state business or in any state owned/leased vehicle also is prohibited. The unlawful possession, manufacture, dispensation, use, sale, purchase, storage or transfer of controlled substances, or drug paraphernalia, at any Judicial Department work site, at any off-site location during work related activities or other state business or in any state owned/leased vehicle also is prohibited.

"Controlled substances" are those substances listed in Schedules I-V of Section 202 of the Controlled Substance Act, 21 U.S.C. § 812, as amended. "Drug paraphernalia" is any equipment, product or material primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance." The use of illegal drugs off-duty also is strictly prohibited as is the off-duty abuse of over-the-counter or prescription drugs, state authorized marijuana, or alcohol where such use adversely affects job performance.

Any employee taking over-the-counter or prescribed medications is responsible for consulting with the prescribing treatment provider to ascertain whether the medication might interfere with his/her performance on the job. If the use of a medication could compromise the employee's performance at work, or interfere with the safe performance of the employee, co-workers or the public, it is the employee's responsibility to take leave consistent with local policy practices rather than report to, or remain, at work in an impaired state.

20.D.3. – **Supervisory Responsibility** - It is the responsibility of all management and supervisory personnel to implement these policies and to follow these guidelines to ensure fair and consistent application throughout the Judicial Department.

20.D.4. – **Reasonable Suspicion** - If an employee's behavior or performance promotes a reasonable suspicion of impairment, the employee may be asked to submit to a drug and/or alcohol test. Supervisors who suspect such impairment must advise their Administrative Authority. (See Judicialnet – Reasonable Suspicion Report). The Administrative Authority will determine whether to request testing. If testing occurs during working hours, the employee must be transported to an approved offsite testing facility. All test results arising from this policy shall ensure privacy, proper chain of custody, and remain confidential. Any information should be communicated on a strict "need to know" basis. Any testing where the outcome is a positive result shall be verified through a confirmatory method. If a positive test is verified through a confirmatory test, it will be deemed a violation of this policy.

Reasonable suspicion may be established if an employee exhibits the physical symptoms of intoxication of drug use, such as slurred speech, difficulty walking, glassy eyes, or breath that smells of alcohol; the employee is observed in possession of or using drugs or alcohol; an employee exhibits a pattern of abnormal conduct or erratic behavior; or reliable reports of drug or alcohol use are received from credible sources. (See Judicialnet – Reasonable Suspicion Report for a more inclusive list of examples)

If reasonable suspicion is established based on the information above, it is considered a violation of this policy for an employee to refuse to submit to testing. Refusal may result in referral to mandatory treatment and/or in corrective or disciplinary action up to and including termination of employment. In the case of mandatory treatment, it is the employee's responsibility to verify compliance to her or his Administrative Authority. For employees paid from federal funds, where federal laws or regulations are more stringent than those contained in this policy, the federal regulations and procedures supersede this policy.

20.D.5. – **Duty to Report** - Each employee is required to inform their Administrative Authority in writing within 3 calendar days of being arrested or charged with any offense involving drugs or alcohol. Failure to report may result in corrective or disciplinary action, up to and including termination of employment. The Administrative Authority shall immediately notify the Judicial Department's Human Resources Division. A felony conviction of any criminal drug statute will result in termination of employment.

20.D.6. – **Self-Referral** - Employees, or a family member acting on the employee's behalf, wishing to obtain assistance for the treatment of an alcohol or drug-related problem are encouraged to talk to their supervisor, the Administrative Authority, a member of the Human Resources Division, or seek assistance from the Colorado State Employee Assistance Program (C-SEAP). C-SEAP can provide short-term, confidential counseling free of charge as well as treatment referrals based upon available resources, area of residence, and cultural background. Should an employee undergo alcohol/drug treatment, whether voluntary or mandatory, any absence from work will be handled in accordance with existing leave policies and benefit plans, if applicable. It remains the responsibility of the employee to meet established work standards and perform the essential functions of his or her position. Individuals recovering from alcohol or drug problems may be eligible for reasonable accommodation under the Americans with Disabilities Act.

20.D.8. – **Reporting Requirements** - Any violation or appearance of a violation of this policy shall be promptly reported to any of the following individuals for filing a complaint or report: the person's own supervisor or any other supervisor, the Court Executive, the Chief Probation Officer, the Chief Judge of the court, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

20.E. Mandatory Education Policy

20.E.1. – **Purpose** - The Colorado Judicial Department is committed to lifelong learning and education of employees. While the type of education and training may vary from person to person within the Department, certain training and education is essential for all Judicial Department employees. Education and training are essential to keep pace with changes to the business practice and technology of the court system as well as to increase knowledge and improve relationships with people both within and outside the Department.

The education requirements listed in this policy are mandatory for all employees unless otherwise directed by the Chief Judge. For new employees, the following courses are required within the first 2 years of employment unless otherwise specified.

20.E.2. – **Training Required for All Employees** – All Judicial Department employees shall attend:

a) Anti-harassment for Employees;
b) Code of Conduct; and
c) Diversity, Equity and Inclusion (required within the first 5 years of employment).

The Anti-harassment for Employees and Code of Conduct training courses offered by the Division of Human Resources must be repeated by all employees within 5 years of the previous training so that all employees are aware of updates and changes to the training and to Judicial Department policies.

20.E.3. – **Training Required for All Supervisors** – All Judicial Department employees who supervise employees shall attend the following classes within the first 2 years of employment as a supervisor:

a) Disciplinary Process for Supervisors
b) Personnel Rules
c) Anti-Harassment for Supervisors
d) Hiring Manager
e) Human Resource Law
f) Performance Management for Supervisors
g) Basic Management Skills

The Anti-harassment for Supervisors training course offered by the Division of Human Resources must be repeated by supervisors within 5 years of the previous training so that all supervisors are aware of updates and changes to the training and to Judicial Department policies.

20.E.4. – Employees who are reinstated in accordance with Rule 30.E shall receive credit for mandatory training previously taken. Employees who have had a break in service of more than 180 days shall be treated as a new employee for the purposes of establishing mandatory education and shall be required to retake all mandatory education pursuant to Rule 20.E.

20.F. – Policy for Maintaining a Non-Violent Workplace

20.F.1. – **Purpose** - The Judicial Department strives to maintain a work environment that is free from intimidation, threat, or acts of violence including domestic violence. It is with this commitment in mind that this policy is developed and enforced. Employees should review local safety and security policies in addition to this policy.

The Judicial Department will not tolerate violent behavior or the threat of violent behavior at any Judicial work site, at any off-site location during work-related activities or other state business, or in any state owned/leased vehicle. Violent behavior directed by anyone toward clients, members of the public, vendors, co- workers, contract workers, volunteers, interns, employees, supervisors, managers, or any other person is unacceptable and will not be tolerated. Further, the Judicial Department will not tolerate prohibited behaviors conducted off-duty where the behavior arises from the workplace, has a negative impact on the workplace, and/or has a negative impact on the individual's ability to perform assigned duties. Violent behavior will not be tolerated against a work site or any state owned/leased property.

20.F.2. – **Definitions**

20.F.2.a. – **Violent Behavior** – Violent behavior is defined as any act or threat of physical, verbal, or psychological aggression, including without limitation, stalking behaviors and the destruction or abuse of property by any individual. Threats may include veiled, conditional or direct threats in verbal, written, electronic or gestural form, resulting in intimidation, harassment, harm, or endangerment to the safety of another person or property.

20.F.2.b. – **Domestic Violence** – Domestic violence denotes an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. An intimate relationship is a relationship between spouses, former spouses, past or present unmarried couples, same sex couples, persons who are dating or have previously dated, or persons who are both parents of the same child regardless of whether the persons have been married or have lived together at any time.

20.F.3. – **Prohibition on Weapons** - Weapons are prohibited from being brought into any judicial department work site, state owned parking lot, any off-site location during work related activities or other state business, or any state owned/leased vehicle Except in the following circumstances:

a) When authorized by department rule, policy, or by the Administrative Authority;
b) When possessed for the purpose of carrying out necessary, legitimate duties and functions of a person's job;
c) When the weapon is a knife or other cutting instrument designed and possessed for kitchen use;
d) When the weapon consists of a material agent designed and carried for personal defense.

A “weapon” includes any firearm or facsimile, whether operable or not, and any device, instrument, material, or substance capable of inflicting injury when used either offensively or defensively.

20.F.4. – **Exceptions to Prohibition on Weapons**

20.F.4.a. – **Judicial Officer Exception to Firearms Prohibition** - Judicial officers are prohibited from possessing firearms at any judicial department work site, during work related activities or other state business and in any state owned/leased vehicle, except as permitted in writing by the Chief Judge or Chief Justice. A judicial officer with appropriate legal authority to carry a firearm may request permission from the Chief Judge or Chief Justice who has Administrative Authority over the judicial officer. Any permission granted must be in writing for a specific time and for a specific reason or purpose. Such permission may be revoked at any time without reason.

20.F.4.b. – **Administrator of Judicial Security Exception to Firearms Prohibition** - The Administrator of Judicial Security is permitted to carry a firearm at all judicial department work sites, during work-related activities or other state business and in any state owned/leased vehicle.

20.F.5. – **Reporting Requirements**

20.F.5.a. – **Mandatory Reporting of Violations** – Employees must report any violation or appearance of violation of this policy promptly to the employee’s supervisor, any other supervisor, the Court Executive, the Chief Probation Officer, the Chief Judge of the court, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator’s Office.

20.F.5.b. – **Employee Convicted of Crime Involving Violent Behavior or Restrained Party to a Protection Order** - Any employee who is convicted of a crime involving violent behavior or is the restrained party to a temporary or permanent protection order shall immediately notify his/her Administrative Authority. Such information shall also be reported to the Human Resources Division.

20.F.5.c. – **Employee Victim of Domestic Violence or Recipient of Protection Order** – Any employee who is a victim of domestic violence or who is the protected party to a protection order is encouraged to report the incident/situation to their supervisor or the Administrative Authority and to the Human Resources Division so that precautionary measures can be taken for workplace safety. Use of paid time off or leave without pay may be available in accordance with state law for purposes of seeking a civil protection order, obtaining medical care or mental health counseling, securing a home away from the perpetrator, and/or seeking legal assistance to address the domestic violence.

20.F.6. – **Complaints** - Any employee who feels he/she has been subjected to any behavior prohibited by this policy or has witnessed or has knowledge of a violation of this policy, shall immediately report it to their supervisor, any other supervisor, to his/her Administrative Authority,

or to the Director of Human Resources. If an imminent threat exists, local law enforcement should also be contacted. All reports must be documented in writing, with a copy provided to the Human Resources Division, and shall be investigated, with action taken as appropriate.

20.G. – Policy Concerning Personal Relationships in the Workplace

20.G.1. - **Purpose** - The Judicial Department strives to provide and maintain a professional, supportive work environment for all of its members. Supervisors are responsible for maintaining objectivity in their supervision of subordinate employees. Probation officers shall maintain objectivity in the supervision of probation clients.

20.G.2. – **Prohibited Relationships Between Employees** – Personal relationships of a romantic and/or sexual nature between supervisors and their subordinates can create problems in the workplace including conflicts of interest, the appearance of favoritism or preferential treatment, and an increased potential for claims of harassment, coercion or retaliation.

It is therefore the policy of the Judicial Department that:

Where employees and/or judicial officers are married to each other, living together, or otherwise engaged in a romantic and/or sexual relationship, they shall not hold a position in which:

1. One party would directly or through the chain of command:
    a. Exercise supervisory, appointment or dismissal authority over the other person,
    b. Be in a position to take disciplinary action against the other person, or
    c. Otherwise have a direct effect on the terms and conditions of the employment of that person;
2. One party audits, verifies, receives or is entrusted with money handled by the other, or has access to confidential information, including payroll; or
3. One party is a justice, judge or magistrate working within the same court or judicial district of the other party who is employed in that court or judicial district.

Where a romantic and/or sexual relationship exists between two persons as described in sections 1-3 above, both parties involved shall immediately notify the Administrative Authority or the Human Resources Director. The Administrative Authority shall, within 30 days of the notification or otherwise becoming aware of a relationship, attempt to accommodate the relationship, if necessary and practical, by altering the reporting structure or by transferring or reassigning one or both persons so that the conflict of interest no longer exists. If no opportunity exists for reassignment, voluntary demotion or transfer, one of the parties shall be requested to resign from his or her employment with reinstatement rights as provided by the Colorado Judicial System Personnel Rules.

20.G.3. – **Prohibition on Relationships Between Probation Officer and Probation Clients** - Personal relationships of a romantic and/or sexual nature between probation staff members and probationer clients can also create problems in the workplace including conflicts of interest, impropriety or the appearance of impropriety, and an increased potential for claims of harassment, coercion or retaliation. Therefore, it is the policy of the Judicial Department that

probation staff are prohibited from entering into a romantic or sexual relationship with any probation client supervised in that same district while the individual is on probation and for a period of 6 months following termination of probation by the court. Should the probation staff member have supervised the client, directly or indirectly, this restriction shall apply for the entire period the probationer client remains on probation, whether in that same district or in another district, and for a period of 1 year following termination of probation by the court.

Should an individual with whom an employee has an existing personal romantic and/or sexual relationship be sentenced to probation, in that district or in another district, the employee shall immediately inform the Administrative Authority so that appropriate accommodations may be considered to avoid any conflict of interest and/or appearance of impropriety, including transferring supervision of the probation client to another district as practicable and ensuring the probation staff member is aware of the Rule 20.C restrictions on accessing the file and/or otherwise influencing probation supervision of the client. The Administrative Authority shall notify Legal Counsel and the Director of Human Resources of the SCAO prior to taking action in relation to this policy.

20.G.5. – **Reporting Requirements** - Any violation or appearance of a violation of this policy shall be promptly reported to any of the following persons for filing the complaint: the person's own supervisor or any other supervisor, the Court Executive, the Chief Probation Officer, the Chief Judge of the court, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

20.H. – Policy on the Use of Social Media

20.H.1. – **Purpose** - The purpose of this policy is to:

a) Recognize the use of social media by the Judicial Department and its employees;
b) Recognize the value of social media networks as a means for data gathering in furthering the business needs of the courts and probation;
c) Address the risks of social media activity and the need to adhere to the Colorado Judicial Department Code of Conduct and other applicable Department policies when using social media both at work and off duty in order to preserve public confidence in the integrity, propriety and impartiality of the judiciary; and
d) Avoid loss of productivity and distraction from employees' job performance and duties.

20. H.2. – **Definitions** – For the purpose of this policy, the term social media will be given broad interpretation and includes without limitation:

a) Electronic, web-based technologies that allow instant, widespread and interactive communication; and
b) Activities on the internet that involve posting by the employee, examples include, but are not limited to: blogging; podcasting; hosting or updating any form of website; posting comments, photos, other graphics, documents, links, status updates, or multimedia materials to a third party hosted website; saving website bookmarks to a public site; filling out surveys; sharing or participating in any other way on a social networking site such as Facebook, Pinterest, Instagram, or a micro blogging site such as Twitter; developing or contributing to a wiki such as Wikipedia or a virtual world like Second Life, etc.

20.H.3. – **Risks of Social Media Activity** - Online communications may be perceived by court customers, vendors and the public generally as a representation of the communicator's character, judgment and values and could have an adverse effect on the confidence of the public in the integrity, professionalism and impartiality of the judiciary regardless of intent.

20.H.3.a. – Social Media posts should be presumed public and permanent. Social media posts can be copied, forwarded or subpoenaed. Such posts are easily reproduced, can be difficult to eradicate, and may be seen by wide and unintended audiences.

20.H.3.b. – Once posted, there is little to no control over a post's dissemination or ultimate use. Posting some types of information on social media may be misleading (even though it is not so intended) and may jeopardize the person's professional image or reputation and, by extension, the Colorado Judicial Department. Employees should be especially careful when posting or sharing photographs and personal information, and be similarly cautious when sharing political, religious or social opinions.

20.H.3.c. – Employees are personally responsible for comments posted on social media and can expose themselves to liability and/or corrective or disciplinary action for comments that are defamatory, obscene, discriminatory or otherwise offensive or unlawful.

20.H.3.d. – Employees should be careful to comply with all copyright laws and reference or cite sources appropriately as laws against plagiarism can apply to online postings.

20.H.4. – **Compliance with Other Policies** - Social media shall never be used in a way that violates the constitution and laws of the United States and the State of Colorado, court rules, or any Judicial Department state-wide or local policy, including the Code of Conduct, Anti-Harassment and Anti-Discrimination Policy, the Electronic Communications Usage Policy, or Rule 23.

20.H.5. – **Official Business and Employment Related Use of Social Media** - Use of social media for official Judicial Department business related purposes is permitted only when approved by the Administrative Authority, State Court Administrator, Chief Information Officer or Director of Human Resources. Employees shall have no expectation of privacy associated with use of social media related to official business or employment purposes even where private technology resources are used.

20.H.6. – **Personal Use of Social Media on Personal Time**

20.H.6.a. – The Colorado Judicial Department respects the right of employees to use social media as a vehicle for self-expression and public conversation. However, employees are required to comply with the following restrictions when using social media on personal time both at work and while off duty: When posting on social media an employee may identify her/himself as an employee of the Colorado Judicial Department generally, but may not post information or express opinions regarding employees, managers, Judges, clients or customers of the courts and probation, cases, policies or procedures of the Judicial Department.

20.H.6.b. – Employees shall be responsible for regularly reviewing the social media and websites they create or host and promptly remove third-party posts that (1) compromise court security or the safety of judges and employees; (2) reveal non-public court records or other confidential judicial information or (3) contain information that the employee could not have posted personally under this policy or the Rule 20.C.

20.H.6.c. – Employees must obey the law and the rules of the website or social network site in which they participate. Further, even if not explicitly directed by this policy, they should obey other applicable legal and ethical rules.

20.H.7. – **Prohibited Activities** - Notwithstanding any other provision of this policy, employees are prohibited from engaging in the following social media activities, whether the activity is done on or off duty and whether the activity is using personal or Colorado Judicial Department technology resources and regardless of whether Colorado Judicial Department employment is identified.

20.H.7.a. – **Confidential or Non-Public Court or Probation Information** – Disclosure of sensitive, confidential or non-public court and probation information, to include photos, for any purpose not connected with official duties, including disclosure of information relating to a pending case that is not a matter of public record is prohibited.

20.H.7.b. – **Comment about Public Information** – Posting personal opinions about a case or matter before the courts or probation; making statements which create, or give the appearance of, a conflict of interest as set forth in Rule 20.C; and making statements which negatively reflect on the professionalism of the courts and probation or which otherwise have an adverse effect on the confidence of the public in the integrity, propriety and impartiality of the judicial system and/or probation departments are prohibited.

20.H.7.c. – **Political Activities** – Making statements on social media which violate the Judicial Department's restrictions on political activities is prohibited. Employee must comply with the requirements of Rule 23.

20.H.7.d. – **Seal and Logos** – The seal, logos, trademarks or service marks of the Colorado courts collectively, and any Individual court or judicial department or committee, may not be used in any manner without express permission from the Administrative Authority or State Court Administrator.

20.H.7.e. – **Job Performance** – Use of Social Media at work must not take time or focus away from work assignments, customer service or professional interactions with clients, customers or coworkers or create the perception thereof.

20.H.7.f. – **Judicial Process** – Employees must refrain from discussing any of the Court's internal processes and procedures, whether they are of a non-confidential or confidential nature, including scans, photos, or reproductions of emails or text messages.

20.H.7.g. – **Dishonest Communications** – Employees must avoid deceptive behavior and misrepresentations online, including false and defamatory statements and communicating electronically or creating websites or accounts while employing a misleading alias or suggesting that the employee is someone else. This provision does not apply to the routine and accepted practice on the internet of employing a nickname or other opaque user name to create an account or make a posting, provided the user name is not misleading or deceptive in the context used or would not otherwise violate any provision of this policy had the employee's true identity been disclosed.

20.H.8. – **Monitoring Employees' Use of Social Media** - The Colorado Judicial Department reserves the right to visit and monitor public social media sites to ensure that employees are not violating this or other Judicial Department policies. As a condition of continued employment, the Colorado Judicial Department may request employees to cooperate in any investigation regarding a complaint alleging a violation of this policy.

20.H.9. – **Reporting Requirements** - Any violation or appearance of a violation of this policy shall be promptly reported to any of the following persons for filing a complaint: the person's own supervisor or any other supervisor, the Court Executive, the Chief Probation Officer, Chief Judge of the court, and/or the Human Resources Director, or any Human Resources Analyst of the State Court Administrator's Office.

20.I. – Policy on the Use of Recording Devices by Judicial Department Employees

20.I.1. – **Purpose** - The purpose of this policy is to protect the safety and privacy of Judicial Department employees, and to protect the integrity of Judicial Department business, by prohibiting the inappropriate use of recording devices.

20.I.2. – **Definitions**

20.I.2.a. – **Covert Recording** – A recording device is used without the person recording giving notice of the use of the device to those being recorded. The recording device may be hidden or disguised, or the person recording may otherwise deceive others by using, hiding or disguising the recording device.

20.I.2.b. – **Overt Recording** – A recording device is in plain view and used with notice to each person being recorded.

20.I.2.c. – **Recording Device** – Any device used to record, photograph, or film the voice, movements, and/or actions of anyone, papers or property in an electronic, magnetic, digital or other format.

20.I.3. - **Prohibition on Recording** - Judicial Department employees are prohibited from using any recording device in their capacity as a Judicial Department employee or while performing duties on behalf of the Judicial Department to record, photograph, or film the voice, movements, actions or property of any person, papers or property in an electronic, magnetic, digital or any other format without authorization to do so from each person recorded.

20.I.4. – **Authorized Recordings Pursuant to Policy** - Recording devices should only be used in the following circumstances:

20.I.4.a. – **By Human Resources during the formal discipline process** – Employees from the Human Resources Division of the Office of the State Court Administrator will use overt recording devices to record meetings held during the formal discipline process found in Rule 29 of the Colorado Judicial System Personnel Rules, including during Pre-Disciplinary Action Notice meetings and Pre-Corrective Action Notice meetings. Human Resources may also record meetings between employees and administrative authorities to deliver Corrective Actions or Disciplinary Actions.

20.I.4.b. – **By Human Resources as part of an investigation/inquiry** – Employees from the Human Resources Division of the Office of the State Court Administrator will use overt recording devices to record interviews with employees as part of a formal investigation/inquiry pursuant to Judicial Department policy.

20.I.4.c. – **By Human Resources as part of informal discipline** – Employees from the Human Resources Division of the Office of the State Court Administrator may, at the request of the meeting participants, use overt recording devices to record meetings between supervisors and employees being held to discuss performance issues, or to discuss possible discipline.

20.I.5. – **Process to Request Copy of Recording** - An employee subject to a corrective or disciplinary action may request a copy of a recording of a meeting held pursuant to Rule 29.C.5. from Human Resources. The employee must make the request in writing, and the request must be sent to the Director of Human Resources. Witnesses may not request copies of interviews given in relation to an investigation/inquiry. Employees may not request copies of any other recordings by Human Resources.

20.I.6.- **Actions Not Prohibited** - This policy does not prohibit the unannounced and/or covert use of recording devices in connection with any lawful investigation which occurs during the normal course of business and in connection with an employee's job duties. This policy does not apply to the use of recording devices by probation officers performing their duties with probation clients, when that client requests that the meeting be recorded or if the client is themselves recording the meeting. This policy also does not apply to recordings done by an individual who has been authorized to record communication at work as an accommodation pursuant to the Americans With Disabilities Act, but all such recording must be overt.

20.I.6.a. - **Training** - This policy does not prohibit the recording of training provided by Judicial Department Employees for the purpose of making this training available at a later

time, or as a reference. Training provided by outside vendors or subject matter experts but sponsored by the Judicial Department and for the benefit of Judicial Employees may also be recorded. Any recording must be agreed to by the instructor and all participants should be made aware that the recording is taking place.

Rule 21 - Hours of Work & Overtime

21.A. – Time Worked and Workweek

21.A.1. – The normal workweek for a full-time employee shall be 40 hours in any established seven-day period, which shall be from Monday at 12:00a.m. to the following Sunday at 11:59p.m.

21.A.2. – The supervisor or Administrative Authority shall establish work schedules for all employees. Hours of work is time that an employee is working, and does not include time off for holidays, qualified leave or leave without pay. Hours worked shall be counted in fifteen-minute increments for the purpose of time reporting. Employee time from 1 to 7 minutes shall be rounded down to the nearest quarter hour, and employee time from 8 to 14 minutes shall be rounded up to the nearest quarter hour. The expectation is that employees shall strictly adhere to established work schedules and nothing in this rule shall prohibit a supervisor or Administrative Authority from addressing attendance and punctuality concerns with an employee.

21.A.3. – Periods of time engaged in the participation in Judicial Department workplace mediation, participation in tests and interviews for Judicial Department positions, and attendance at approved job-related trainings shall be counted as part of the normal workweek with prior notice and approval of a supervisor or Administrative Authority.

21.B. – Overtime

21.B.1. – Overtime is time a non-exempt employee is directed or permitted to work in excess of 40 hours in the employee's established 7-day work period.

21.B.2. – All employees shall obtain approval of their supervisors prior to working overtime. Supervisors may approve overtime work only upon authorization by the Administrative Authority. Failure to request such approval prior to working overtime may result in corrective or disciplinary action pursuant to these rules.

21.C. – Eligibility for Compensation at Premium Pay – The State Court Administrator, or designee, shall determine those job classes of employees eligible for, and excluded from, overtime compensation at premium pay. The decision of the State Court Administrator, or designee, shall be final, and shall not be subject to appeal or review.

21.D. – Overtime Compensation – Except for exempt employees, all employees shall be compensated for overtime at premium pay, which shall be the rate of time-and-one-half for each overtime hour, in either compensatory time off or pay in accordance with the following provisions:

21.D.1. – **Compensatory Time Off as Compensation**

21.D.1.a. – Overtime for each eligible employee shall accrue as compensatory time off up to a maximum of 60 hours of compensatory time (representing 40 hours of overtime work), except as provided for in Rule 21D.2.c.

21.D.1.b. – Every effort shall be made to schedule compensatory time off within 60 calendar days following the payroll period in which the overtime was worked. Compensatory time must be taken before other types of leave except for administrative leave.

21.D.2. – **Monetary Compensation**

21.D.2.a. – When 60 hours (representing 40 hours of actual overtime work) of compensatory time has been earned, subsequent overtime hours shall be compensated at premium pay on the next available payroll.

21.D.2.b. – If the Administrative Authority is unable to grant compensatory time off within 60 calendar days following the payroll period in which the overtime was worked, then the employee shall be compensated at premium pay on the next available payroll.

21.D.2.c. – **Overtime Project Exception to Compensatory Time Accrual** – Subject to the availability of funds, the Administrative Authority may pay an employee for overtime on the next payroll period in which the overtime was worked for work done pursuant to an overtime project. If an employee performs work for an overtime project, the employee shall not accrue compensatory time.

21.D.2.c.i. – Requirements for an Overtime Project – An overtime project must be work that is done for the benefit of the District and must be done before or after an employee's regular work hours. An overtime project shall not include work that an employee is expected to perform during the employee's established work schedule. The Administrative Authority shall determine in writing (1) the job classes eligible for the overtime project and the duties to be performed; (2) an estimate of the number of hours available and (3) the location where the work will be performed.

21.D.2.c.ii. – **Notice of Overtime Project to Employees** – The Administrative Authority or designee shall provide notice to all employees in the eligible job classes of the overtime project, the duties to be performed for the overtime project, and the number of hours available. Notice must be given for each overtime project

21.D.2.c.iii. – **Notice from Employees of Interest –** Employees who wish to work on the overtime project shall send written notice of their interest in, and availability for, the overtime project as directed by the Administrative Authority or designee.

21.D.2.c.iv. – **Determination of Eligibility –** The Administrative Authority or designee shall evaluate the employees who indicated interest in the overtime project to determine if the employee is eligible for the overtime project, meaning that the employee has indicated a willingness to work outside of their normal

schedule and the employee can perform the duties required for the overtime project. The Administrative Authority or designee shall also determine the number of overtime hours available to each employee. The Administrative Authority or designee shall provide written notice to employees who qualify for the overtime project of: (1) the number of hours that the employee may work for the overtime project; (2) when the employee may work the additional hours; and (3) that any accrued overtime as a result of the overtime project shall be paid to the employee on the next payroll period and shall not be available to the employee as compensatory time off.

21.D.2.d. – Upon separation from employment, the employee shall be paid out for any remaining unused compensatory time.

21.E. – On Call Pay

21.E.1. – **Compensation for Restrictive On-Call Time** – Non-exempt employees are eligible for on-call pay if the employee is required to be accessible outside of normal work hours and is not able to use the time effectively for personal activities either because of the frequency of work calls received during the on-call time or because freedom of movement is significantly restricted. This includes the situation where an employee is limited from traveling outside of the district or not more than 30 miles away from the office or reporting location while the employee is waiting to be engaged to work; and where the employee is prohibited from drinking alcohol during the period of time the employee is waiting to be engaged to work. Such employees shall be compensated for those on-call hours including time waiting to be engaged to work in accordance with Rule 21.D.

21.E.2. – **Compensation for Non-Restrictive On-Call Time** - Non-exempt employees who are not restricted in their activities, as defined in Rule 21.E.1., but spend time responding to phone calls or requests for assistance shall be compensated for time spent responding to the on-call request in accordance with Rule 21.D.

21.E.3. – Non-exempt employees who meet the above criteria may be compensated by paying overtime, receiving compensatory time off, or working a flexible schedule in the same work week. Overtime shall be paid at 1 1/2 times the hourly rate for any hours worked over 40 in a work week. Compensatory time may be given in lieu of overtime pay. Compensatory time shall be granted at 1 1/2 hours for each hour worked over 40 in a work week. Every effort shall be made to schedule compensatory time within 60 calendar days following the payroll period in which the overtime was worked. Compensatory time must be used within 60 calendar days following the payroll period in which the overtime was worked pursuant to Rule 21.D. The Administrative Authority shall have discretion to require employees to work a flexible schedule so that on-call hours worked do not exceed 40 hours in a workweek.

21.F. – Records – The Administrative Authority shall maintain records of all time worked in each work week by all non-exempt or part-time department employees in accordance with procedures established by the State Court Administrator, or designee.

Rule 22 - Conflict of Interest with Cases Pending Before the Colorado Judicial Department & Outside Employment

22.A. – Principal Vocation of Employees – Judicial employment shall be the principal vocation of employees.

22.B. – Conditions of Outside Employment/Volunteer Activities – An employee may engage in outside employment and volunteer activities if the following conditions are met:

1. The outside employment/volunteer activity does not interfere with job performance;
2. The outside employment/volunteer activity does not conflict with the interest of the Judicial Department or the State of Colorado;
3. The outside employment/volunteer activity is not the type which could reasonably give rise to criticism or suspicion of conflicting interest or duties; and
4. The employee has obtained prior written approval from the Administrative Authority. Each outside employment/volunteer activity request shall be submitted on a separate form. The Request for Outside Employment/Volunteer Activity form can be found in the Human Resources section of Judicialnet under "Forms".
5. If the employee is requesting employment with another Colorado State agency, prior approval is required, and the Director of Human Resources shall be informed prior to work commencing.
6. If any terms or conditions of the outside employment/volunteer activity change, the employee must re-submit the request for outside employment/volunteer activity and receive proper approval.
7. Employees are prohibited from applying for and/or accepting an appointment to independent agency judicial boards or commissions unless otherwise specified in statute. Independent agency judicial boards or commissions include, but are not limited to, the Judicial Nominating Commission, Judicial Performance Commission, Judicial Discipline Commission, the Public Defender Commission, Child Protection Ombudsman Board of Directors, Office of Respondent Parents' Council Commission, Office of Child's Representative Board of Directors, and the Independent Ethics Commission. New employees joining the branch who are currently appointed to one of the aforementioned commissions or boards must step down from service within 90 calendar days from the first date of Judicial employment. Employees currently appointed to one of the aforementioned commissions or boards as of July 1, 2018 must step down from their position within 90 calendar days from July 1, 2018, and may not seek or accept another term of service. Any exceptions to this rule must be granted by the Chief Justice or the State Court Administrator, or designee.

22.C. – Conflict of Interest with Cases Pending Before the Court – An employee shall immediately notify the Administrative Authority of any case filed with any judicial jurisdiction where the employee has a personal, business, or family interest. The employee shall avoid any involvement in the processing of the matter before the court or probation, including electronically accessing the case. Failure to immediately report the existence of such matters in writing, but in no event later than 3 calendar days after the employee becomes aware of the conflict, may result in a corrective or disciplinary action.

Rule 23 - Political Activity

23.A.– Political Activity

23.A.1. – Employees who are not restricted pursuant to Rule 23.B. may engage in activities of both a partisan and non-partisan nature as individuals, except:

i. Judicial employees may not run for or hold any office which requires declaration of a political affiliation, even if the employee participates as an unaffiliated party.
ii. Judicial employees must not compromise the integrity and independence of the judiciary,
iii. Judicial employees must not engage in any political or non-partisan activity while on Judicial Department time or using any Judicial Department equipment or resources,
iv. Judicial employees may not display buttons, stickers, pictures, or other campaign paraphernalia while at work or on Judicial Department time,
v. All judicial employees within the judicial district where a case is filed or heard concerning a campaign, election or initiative must cease activity as to that campaign, election, or initiative.

23.A.2. – No Judicial employee may represent the Judicial Department's position before members of the state general assembly or with an individual state legislator without permission of the Chief Justice or Legislative Liaison. An employee may not take a public position on court or probation related matters in letters to the editor or in correspondence to elected officials. In political correspondence concerning non-judicial/non-probation matters, employees may not identify themselves as an employee of the Judicial Department, local court or local probation office.

23.A.3. – Employees cannot take actions that might be construed as speaking on behalf of the judge or the judge's chambers, or that bring the judiciary into disrepute.

23.B – Restricted Employees

23.B.1. – Certain employees are restricted from engaging in political activity by virtue of their close association with a judicial officer. These positions include magistrates, water referees, law clerks, court judicial assistants or judicial assistants who work closely with a judicial officer, bailiffs or court reporters. In some jurisdictions, there may be additional employees who would be closely aligned with a judicial officer so as to fall within this category of employee. The decision as to whether an employee falls into the restricted category will be decided by the Administrative Authority of the district in consultation with the Director of Human Resources.

23.B.2. – In addition, other positions within the judicial department are similarly restricted by virtue of their identity as a policy maker. These positions include, but are not limited to Court Executives, Deputy Court Executives, Clerks of Court, Chief Probation Officers, Deputy Chief Probation Officers, State Court Administrator, Division Directors at the State Court

Administrator's Office, Legal Counsel, Public Information Officer, and other similarly situated employees of the Judicial Department.

23.C. – Restricted Activities – Employees categorized as restricted in Rule 23.B. are prohibited from taking an active role in partisan politics by:

a) Publicly endorsing a partisan political candidate or organization by authorizing use of the employee's name, making speeches, or participating in a partisan political convention or fund-raising activity, except that participation in a partisan political caucus is acceptable;
b) Publicly endorsing a partisan political candidate or organization by displaying a campaign picture, sign, sticker, badge or button for a partisan political candidate or organization whether at work or other location, including at the employee's home;
c) Initiating or circulating a nominating petition for a candidate in a partisan political election;
d) Participating in a campaign in support of or in opposition to a candidate in a partisan political election;
e) Soliciting funds for or contributing to a partisan political organization, candidate, or event;
f) Taking an active role in other activities, by:
    i. Acting as a recorder, watcher, challenger, election judge or similar officer at the polls in a partisan political election;
    ii. Initiating, signing, or endorsing referendums, petitions, recalls, and ballot initiatives.

23.D. – Leave Without Pay – Leave without pay to engage in political activity or to serve in an elected office shall not be granted.

Rule 24 – Employee Organizations

Judicial Department employees shall have the right to join employee associations or unions of their own choosing and at their own expense. Membership in an employee association or union is not a required condition of employment in the judicial personnel system. No employee may be coerced into joining or not joining any such organization against the employee's wishes nor may the employee be contacted by a representative of any employee organization during working hours for the purpose of soliciting membership.

Rule 25 - Employee Representation

25.A. – An employee shall have the right to legal counsel at the employee's own expense at any time that the following proceedings are available to the employee under these rules:

1. Review of a disciplinary action or involuntary termination under Rule 35;
2. Disciplinary action under Rule 29.C.; and
3. Involuntary termination due to mental or physical disability under Rule 32.

25.B. – In any circumstance in which an employee has a right to legal counsel, the Judicial Department may also be represented by legal counsel.

PART 6
LEAVE & BENEFITS

Rule 26 - Leave

26.A. – Paid Time Off and Extended Sick Leave

26.A.1. – Accrual

26.A.1.a. - Effective February 28, 2022,[1] a newly appointed classified employee's accrual rate for paid time off and extended sick leave will be calculated based upon the date of initial employment with the State of Colorado, per Rule 26.A.1.c., as follows:

Paid Time Off and Extended Sick Leave

Years of Service based on accrual start date	PTO Accrual Rate Per Hour Worked [2]	Max PTO Accrual per year	Extended Sick Leave Rate/ hr worked	Maximum ESL Accrual per year
1 yr	0.081 hrs	168	0.023 hrs	48
2nd-4th	0.093 hrs	336	0.023 hrs	192
5th-10th	0.099 hrs	352	0.023 hrs	360
11th-15th	0.116 hrs	384	0.023 hrs	360
16th +	0.127 hrs	432	0.023 hrs	360
For those hired prior to 1988 and having a sick leave balance of more than 360 hours	0.127 hrs	336+1/4 Sick leave at the time of conversion up to 360 hours of sick leave, whichever is less.	0.023 hrs	The remainder of the sick leave balance, or 360 hours, whichever is more.

1. On July 1, 2008 Colorado Judicial moved from the State of Colorado leave system into its own timekeeping and leave system (Judicial Employee Time and Records System, JETRS). The February 28, 2022 date reflects the date Colorado Judicial moved from the JETRS system into a new system and began the accrual policy as explained in C.J.S.P.R. 26.A.1.a.

2. PTO and ESL Annual Accrual Amounts based on 1.0 FTE

26.A.1.b. – A part-time employee shall earn and accrue extended sick and paid time off on a prorated basis. Part-time employees may accrue leave up to the limits established in section A.1.a. of this rule. If the employee's status changes affecting the percentage of FTE, the accrual rates for paid time off and extended sick leave will change effective the first of the month following the change in status.

> **26.A.1.b.i –** An employee who holds a classified position and a position governed by contract shall accrue leave for their classified position at a prorated basis and may not accrue additional leave pursuant to their contract unless the sum total FTE for the classified position is less than .3 FTE.
>
> An employee who only holds a position governed by a contract shall only accrue leave in accordance with the contract governing their employment.

26.A.1.c. – A year of service for purposes of this rule shall be 12 months of continuous employment with the State of Colorado, which includes continuous employment in any State of Colorado position, and shall be deemed completed on the first day of the calendar month following one year from the date of initial employment, except that if that year is completed on the first working day of the calendar month, that day shall be the completion date. Time spent working on a Colorado Judicial Department employment contract may be included in determining the initial employment date as long as there was no break in service longer than 90 calendar days prior to appointment to the classified position. Periods of interruption in leave accrual shall result in adjustment of the length of service date provided in these rules.

26.A.1.d. – A former employee who returns to work for the Judicial Department shall earn and accrue paid time off and extended sick leave treating the date of return as the date of initial employment, except that employees who return by reinstatements defined in these rules shall have their prior paid time off earning and accrual rates restored.

26.A.1.e. – To accrue paid time off or Extended Sick Leave, for any week, an employee must either work or be on authorized qualified leave. Leave earned shall be credited to the employee on a weekly basis and available for use once credited. For purposes of this provision, the term qualified leave is defined to only include periods of paid time off, extended sick leave, funeral leave, designated holiday leave, jury and witness leave, administrative leave, victim protection leave, furlough leave, military training leave, paid or unpaid family and medical leave (FML), or compensatory leave.

26.A.1.f. – An employee shall not earn paid time off or extended sick leave during any periods of disciplinary suspension or during any period of leave without pay except as otherwise provided in these rules.

26.A.1.g. – An employee may earn paid time off and extended sick leave above the maximum permitted under this rule. However, the amount of unused paid time off or extended sick leave shall be limited to the maximum accrual amount as of February 1 at

12:01 a.m. Employees shall make every effort to use excess accumulated paid time off as it is earned throughout the year in accordance with the conditions for paid time off usage provided by these rules to avoid exceeding the allowed maximum at the end of the year, at which point, leave will be capped. Employees are encouraged to maintain a minimum balance of 80 hours of paid time off to allow flexibility in the event of an illness, injury or other unforeseeable absence.

26.A.1.h. – Administrative authorities and supervisors shall work with employees to grant the use of accrued paid time off throughout the year to avoid the loss of accrued paid time off by employees under their supervision. Employees shall monitor their accrued PTO throughout the year to avoid losing hours that extend beyond the maximum annual accrual at the end of the year.

26.A.1.i. – Each February 1, the accrued paid time off and extended sick leave balances of each employee shall never exceed the maximum amount permitted under this rule.

26.A.1.j. – Forfeiture of accrued paid time off as a disciplinary action is prohibited.

26.A.1.k. – Requiring an employee to have a specified leave balance is prohibited except as specified in these rules.

26.A.1.l. – Through error, an employee may accrue more leave than is due. When the error is detected (regardless of where or how the error was made), any excess leave shall be removed from the employee's PTO and/or ESL balances. If an existing leave balance is insufficient to reduce the entire number of hours owed, the balance shall be reduced in amounts over a period of time to be determined by the Division of Human Resources and the Administrative Authority in consultation with the affected employee.

If the employee's leave balance exceeds their maximum accrual hours, the reduction of the leave balance should occur before the year-end leave conversion on February 1. If an over-accrual error goes undetected for more than 3 years, the maximum liability for reduction in hours shall be limited to the total amount of the over accruals for the last 3 years.

26.A.2. – **Paid time off Provisions**

26.A.2.a. – An employee may request to use paid time off for any reason. Use of paid time off must be authorized by the appropriate Administrative Authority or designee, who may establish periods during which no paid time off may be taken if necessary, to maintain the efficient function of the courts, except under circumstances of unforeseen illness or injuries.

26.A.2.b. – An employee who wants to use paid time off shall request written authorization in advance where practicable. At the discretion of the Administrative Authority or designee, leave taken without prior authorization may be charged as leave without pay.

26.A.2.c. – An employee shall not be granted the use of paid time off during any period of disciplinary suspension.

26.A.2.d. – **Sharing of Paid Time Off**

26.A.2.d.i. – The Administrative Authority, with approval of the Human Resources Director, may approve the transfer of accrued paid time off from one employee to another under the following circumstances:

(a.) The employee in need of donated paid time off must make a written request to the Administrative Authority.
(b.) The employee to whom the leave is transferred has exhausted all paid time off and extended sick leave, must not be receiving worker's compensation, short-term disability or long-term disability benefits; and must be on family medical leave, or be on medically certified leave if the employee does not qualify for family medical leave, as defined within these rules.
(c.) The employee or a member of the employee's immediate family is experiencing a catastrophic injury or illness.

Catastrophic injury or illness is defined as a physical illness or injury, that is a direct threat to life, as certified by a health care provider. For purposes of this rule the term family member means the employee's child, including adult children not living in the employee's home, spouse, domestic partner or partner in a civil union, parent, including parents not living in the employee's home, and any person living in the employee's household for whom the employee is the primary caregiver, as defined in section 26.N.10.(i).

26.A.2.d.ii. – Parties interested in donating paid time off may do so when qualifying circumstances exist within the same district. The donating party shall notify the Administrative Authority, indicating the number of hours he/she is willing to donate. Leave will not be transferred from one party to another until needed.

26.A.3. – **Extended Sick Leave Provisions**

26.A.3.a. – **Use of Extended Sick Leave**

26.A.3.a.i. – Except for employees whose leave is governed by Rule 26.E. of these rules, employees using 80 cumulative hours of paid time off, compensatory time, leave without pay, or combination thereof for purposes related to a family and medical leave event(s) as defined in Rule 26.N., within an event year, shall be granted the use of extended sick leave. Extended sick leave may only be used for serious health conditions, including recovery after childbirth. Employees shall be charged PTO for bonding time or a qualifying exigency due to being on or being called to active duty allowed under Rule 26 which is not medically required or accompanied by a medical certification. Each event year, employees described in this rule are eligible to use extended sick leave after exhaustion of 80 cumulative

hours of paid time off, compensatory time, leave without pay, or any combination thereof for a qualifying family and medical leave event.

For all employees, the 80 cumulative hours of leave required prior to the use of extended sick leave begins accumulating for each hour of absence, whether paid time off, compensatory time or leave without pay, after the date the Administrative Authority or designee designates as eligible for family and medical or medically certified leave per event year. The subsequent completed medical certification form must be provided to verify the serious health condition within the time period specified or the employee's ability to access extended sick leave will be delayed.

26.A.3.a.ii. – An employee who uses or requests extended sick leave shall comply with the requirements of these rules and with local policies governing the reporting and requesting of extended sick leave.

26.A.3.a.iii. – An employee shall not be granted the use of extended sick leave during any period of disciplinary suspension.

26.A.3.b. – **Medical Certification**

26.A.3.b.i. – The Administrative Authority or designee may at any time request or require medical certification before approval of paid time off or extended sick leave and may investigate an alleged illness or injury any time the improper use or abuse of paid time off or extended sick leave is suspected. The Administrative Authority or designee may deny the use of paid time off or extended sick leave if the employee fails to provide such medical evidence, or if the investigation supports a reasonable belief that the employee is improperly using or is abusing paid time off or extended sick leave.

26.A.3.b.ii. – An employee who is denied the use of paid time off or extended sick leave for an absence, or who inappropriately uses extended sick leave for a non-medically certified absence, may be placed on leave without pay and ordered to return to work by a specific date or be subject to disciplinary action. An employee who has abused the use of paid time off or extended sick leave for an absence may be placed on leave without pay and ordered to return to work by a specific date or be subject to disciplinary action.

26.A.3.c. – **Exhaustion of Extended Sick Leave** – When an employee has exhausted all accrued extended sick leave and is still unable to return to work due to any of the causes recited in Rule 26.A.3.a.i., the Administrative Authority shall grant use of accrued paid time off up to the maximum time off allowed under the family and medical leave provisions of these rules or consult with Human Resources to determine what other options may be available to the employee.

26.A.4. – **Transfer of Extended Sick Leave and Paid Time Off** – An employee who is appointed to a position in the Judicial Department classified system from a position in another state agency or whose non-classified job in the Judicial Department is brought into the classified system may be credited for accrued annual leave balances by converting hours directly to paid time off, up to the maximum annual accrual allowed under Rule 26. One quarter of accrued sick leave balance, (maximum transfer of 90 hours) shall also be converted directly to paid time off, up to the maximum annual accrual allowed. Remaining accrued sick leave balances shall be converted to an extended sick leave balance, up to the maximum annual accrual allowed.

26.A.5. – **Compensation for Accrued Leave**

26.A.5.a. – Upon separation from employment or move to a contract position, an employee shall be compensated for:

i. All unused accrued paid time off (as defined in Rule 26) and subject to the maximum annual accrual allowed under Rule 26.
ii. Upon the death of an employee, compensation for unused accrued paid time off, subject to the limitations of section A.1. of this rule shall be paid to the surviving spouse or, if none, to the estate of the deceased.
iii. Unused accrued extended sick leave will not be paid out to the employee upon termination of employment nor to their surviving spouse or estate upon the death of an employee.

26.B. – Funeral Leave

26.B.1. – The Administrative Authority, or designee, shall grant funeral leave with pay to attend the funeral or memorial service of a: spouse, domestic partner , child, parent, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, grandchild, brother, sister, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin. The employee may request authorization from the Administrative Authority for the use of funeral leave for other persons.

26.B.2. – Normally, funeral leave may be granted only to arrange for, travel to, attend, and return from the funeral or memorial. However, an Administrative Authority may grant up to a maximum of 40 hours, prorated for part-time employees, depending upon the relationship of the employee to the deceased, even though these activities do not require the full amount of time. Funeral leave may not be granted for the settlement of estates.

26.C. – Holiday Leave

26.C.1. – **Holiday Designation**

26.C.1.a. – Holidays are designated in section 24-11-101, 10A C.R.S. (l988) and any applicable Chief Justice Directive.

26.C.1.b. - A special day of observance declared by the President of the United States or by the governor shall not be considered a holiday for purposes of this rule, unless it is

extended to the Colorado Judicial Department by order of the Chief Justice of the Colorado Supreme Court.

26.C.2. – **Granting of Holiday Leave**

26.C.2.a. – Full-time employees shall be granted holiday leave for every designated holiday. Part-time employees shall be granted a prorated amount of holiday leave.

26.C.2.b. – An employee who is required to work on a designated holiday shall be granted an equal period of holiday leave at a time determined by the Administrative Authority. Every effort shall be made to schedule this holiday time within 60 calendar days following the payroll period in which the holiday time was worked.

26.C.2.c. – Upon retirement or termination, an employee shall be compensated for unused accrued holiday leave in the same manner as for accrued paid time off.

26.C.2.d. – An employee who is on qualified leave as defined by these rules on a designated holiday which falls on a regular work day shall not be charged any PTO, ESL, Compensatory Time, or LWOP for that day.

26.C.3. – **Other Conditions and Limitations**

26.C.3.a. – To be granted holiday leave, an employee must work or be on qualified leave the last scheduled working day before and the first scheduled working day after the holiday.

26.D. – Jury and Witness Leave

26.D.1. – Upon presenting a summons for jury duty, or subpoena to appear as a witness in a case arising in the course of employment or within the scope of the employee's job duties, an employee shall be granted leave with pay for the duration of such compulsory service. Upon conclusion of jury service, an employee is required to provide a jury certificate to their supervisor or Administrative Authority. Jury and/or witness leave available under this rule shall be paid for the actual hours served. The employee shall contact his or her supervisor at the conclusion of service to determine if the employee needs to return to work or if PTO shall be used.

Any time spent testifying as an expert witness is subject to approval by the Administrative Authority as outside employment under Rule 22. An employee shall request PTO in writing and obtain authorization in advance where practicable. At the discretion of the Administrative Authority or designee, leave taken without prior authorization may be charged as leave without pay.

26.D.2. – The employee who takes jury or witness leave shall remit to the Judicial Department any and all compensation for such service except for any travel reimbursement.

26.E. – Workers' Compensation Leave - Effective July 1, 2013, an employee who suffers an injury or occupational illness in the line of duty, or has an open workers' compensation claim, compensable under the Colorado Workers' Compensation Act shall be granted the option of being "made-whole" when receiving workers' compensation wage replacement benefit payments as set forth below.

26.E.1. – Workers' Compensation

26.E.1.a. – First Report of Injury – All injuries suffered on the job shall be reported in writing immediately, but no later than 4 working days from the date of injury, by the employee to the employee's direct supervisor, the Administrative Authority, Human Resources or designee (the "designated coordinator"). The supervisor will notify the Administrative Authority, Human Resources or designee within 24 hours. Upon notification the Administrative Authority, Human Resources or designee shall complete a "First Report of Injury" form immediately, but no later than 10 working days from the date of injury and submit the form to the workers' compensation third-party administrator to report the employee's injury.

26.E.1.b. – Designated Medical Provider – When an employee is injured on the job, the employee shall be provided, in writing, the full list of designated providers for the district (at least four physicians or four corporate medical providers (or combination thereof)) from which an injured employee may select to seek medical attention. If fewer providers are available in the area, consult the Human Resources Division. The list of providers shall be updated in consultation with Human Resources. The injured employee shall inform the designated coordinator in writing of his/her choice of medical provider. All medical treatment shall be authorized and provided by a district designated medical provider in order to be covered by the workers' compensation third party administrator except in the case of an emergency, where life or limb is threatened, the injured worker may seek medical attention from the nearest medical facility. Further follow-up care must be coordinated through one of the district's designated medical providers. The Workers' Compensation third-party administrator may not pay for medical expenses incurred by the injured employee if he or she seeks unauthorized treatment from a non-designated medical provider. Time off for medical appointments shall be requested and taken in accordance with the regular leave policies of these personnel rules.

26.E.1.c. – Medical Status Reports – A copy of the medical provider's physician status report shall be provided by the employee to the designated coordinator within 24 hours of a medical visit, as practical.

26.E.1.d. – Work Status Updates – The designated coordinator shall maintain regular contact with the injured employee and request updated work status reports, including updated physician reports regarding work restrictions.

26.E.1.e. – Missed Work Reports – The designated coordinator will submit weekly reports to the workers' compensation third-party administrator of missed time after the first

3 days (24 cumulative hours or three consecutive shifts), not including the date of injury, for the processing of wage replacement benefits to the employee.

26.E.1.f. – **Work Restriction Updates** – An injured employee shall inform the designated coordinator of any updated work restrictions. The Administrative Authority may provide a modified duty job offer at any time prior to an injured employee reaching maximum medical improvement (MMI).

26.E.1.g. – **Modified Duty** – Temporary modified duty may be offered to an employee up to a maximum of 6 months to accommodate an employee's medical restrictions with a release to work, consistent with the work force and business needs of the office and until the injured employee is released to full duty, or reaches maximum medical improvement (MMI). An employee may decline the modified duty assignment. Declining a modified duty assignment will impact an employee's wage replacement benefit. Modified duty may be terminated if modified duty work is no longer available or necessary. Modified duty assignments shall be documented by the designated coordinator in writing, in consultation with the Human Resources Division, in order to ensure compliance with the State Division of Workers' Compensation Rules and Procedures. An employee's wage may be adjusted as appropriate to reflect the work performed.

26.E.1.h. – **Modified Duty Oversight** – Modified duty assignments shall be reviewed after each visit to the Authorized Treating Physician (minimally at least once a month) to address the employee's ability to perform the modified duty and any performance issues, including any opportunities for increasing work duties.

26.E.1.i. – **Modified Duty Wage Reports** – During any modified duty period, the designated coordinator shall provide to the workers' compensation third-party administrator record of wages paid to the injured worker. If the injured worker is receiving full wages during the modified duty period, the designated coordinator shall so inform the workers' compensation third-party administrator and no ongoing provision of pay records is required.

26.E.1.j. – **Required Medical Documentation** – The Administrative Authority, or designee, may at any time request or require a physician's status report for verification of the employee's ability or inability to work.

26.E.1.k. – **Job Performance on Modified Duty** – An employee shall be evaluated based on the modified duty tasks assigned while on Modified Duty.

26.E.2. – **Leave Provisions**

26.E.2.a. – **Wage Replacement Options** – Within 3 working days from date of notification of the injury on the job, an employee shall provide in writing to the designated coordinator the employee's choice of wage replacement and leave usage as defined in sections 26.E.2.d. and 26.E.2.e. If the employee does not designate either being made 'whole' or 'unwhole', Human Resources will make the determination.

26.E.2.b. – **Family and Medical Leave (FML)** – If the employee is eligible for family and medical leave (FML) and the leave qualifies as FML, the designated coordinator shall initiate (FML) for the employee as of the first absence following the date of injury. If applicable, leave taken due to an on the job injury will be applied as set forth in Rule 26.N. Workers' compensation leave and FML leave shall run concurrently with any workers' compensation absence as of the first absence following the date of injury.

Once the employee reaches maximum medical improvement, if the employee has a continuing medical need due to the on-the-job injury and FML has not been exhausted, the employee may be eligible for FML as set forth in Rule 26.N., and extended sick leave as set forth in Rule 26.A.3.

> **26.E.2.b.i.** – **Medically Certified Leave** – If an employee is not eligible for FML, the designated coordinator shall initiate Medically Certified Leave, if applicable under the Medically Certified Leave Guidelines, for the employee as of the first absence following the date of injury. If applicable, leave taken due to an injury on the job will be applied to Medically Certified Leave and shall run concurrently with any workers' compensation absence as of the first absence following the date of injury.
>
> Once the employee reaches maximum medical improvement, if the employee has a continuing medical need due to the injury on the job, the employee may be eligible for use of extended sick leave as set forth in Rule 26.A.3. and the Medically Certified Leave Guidelines.

26.E.2.c. – **Workers' Compensation Leave and the First 3 Days of Missed Time** – The first 3 days (24 cumulative hours or 3 consecutive shifts) of lost time due to an on-the-job injury, not including the date of injury, an employee shall be allowed to use extended sick leave or compensatory time, if available. The first 3 days (24 cumulative hours or three consecutive shifts), not including the date of injury, are not subject to wage replacement until 14 calendar days (80 cumulative hours) or a pro-rated equivalent amount of time for a part-time employee are missed from work.

26.E.2.d. – **Workers' Compensation Leave; Wage Replacement Provisions and Supplemental Income** – When an employee has missed 3 days (24 cumulative hours or 3 consecutive shifts) and receives workers' compensation wage replacement benefits, an employee shall have the option of supplementing the workers' compensation wage replacement by charging one third of the total missed time due to an on-the-job injury to extended sick leave, and then paid time off (if available) when extended sick leave is exhausted. The remaining two thirds of the missed time will be recorded as leave without pay. The designated coordinator shall report the leave as "workers' compensation leave," "FML" (or "medically certified leave", if applicable), "extended sick leave" or "paid time off" (if available) when extended sick leave is exhausted, or "leave without pay" as applies to the situation which shall run concurrently on the monthly leave record.

Employees whose two thirds wage replacement amount exceeds the State Division of Workers Compensation maximum benefit rate and who ordinarily would not receive the full two thirds workers' compensation wage replacement shall be allowed to use accrued extended sick leave, then paid time off (if available) when extended sick leave is exhausted, to make up the remaining two thirds payment. Such leave shall be reported to payroll for employee to receive pay.

If the employee is unable to return to work after exhausting extended sick leave and paid time off and has been afforded all rights to FML and medically certified leave, and no reasonable accommodation is available for the employee to return to work, the Administrative Authority may, in consultation with the Human Resources Division, proceed according to the provisions for involuntary termination under Rule 32.

An employee may only use accrued extended sick leave and paid time off to supplement workers' compensation wage replacement. An employee is not eligible to use compensatory time off to supplement workers' compensation wage replacement.

26.E.2.e. – **Workers' Compensation Leave, Wage Replacement Provisions and Leave Without Pay** – If an employee does not choose to supplement workers' compensation wage replacement income by using extended sick leave, or paid time off (if available) when extended sick leave is exhausted, or if an employee has exhausted extended sick leave and paid time off, the designated coordinator shall report the entire missed time for the on-the-job injury as "workers' compensation leave," "FML" (or "medically certified leave", if applicable)", and "leave without pay" to run concurrently on the monthly leave record.

If the employee is unable to return to work after exhausting all accrued extended sick leave and paid time off, and has been afforded all rights to FML or medically certified leave, and no reasonable accommodation is available for the employee to return to work, the Administrative Authority may, in consultation with the Human Resources Division, proceed according to provisions for involuntary termination under Rule 32.

26.E.2.f. – **Continuation of Benefits** – Continuation of benefits shall be in accordance with Rule 27, if applicable.

26.F. – Administrative Leave With Pay – The Administrative Authority may grant paid leave to employees for reasons determined within the current personnel rules and also may be granted for the good of the state that reflect prudent use of state funding and business needs of the department. Administrative leave may not be used when imposing discipline pursuant to Rule 29.

26.F.1. - **Grants for administrative leave** — Documentation of time taken and reason for the administrative time grant must be entered into the official Judicial timekeeping system. Any time granted past 20 consecutive working days for an employee shall be reported by the Administrative Authority or designee to the Director of Human Resources within 5 calendar days of the grant. The expected duration of the administrative leave past 20 days shall be documented

by Administrative Authority, or designee, within the written notification to the Director of Human Resources.

26.F.1.a. - **Disaster Relief Administrative Leave** - With the exception of employees deemed essential to operation of the courts and/or probation services, an Administrative Authority shall grant paid administrative leave for up to fifteen working days per calendar year to employees called to duty on a civil air patrol mission or as a qualified volunteer with a qualified volunteer emergency services organization as determined by the state Department of Local Affairs for the purpose of assisting in a disaster as directed by a county, sheriff, local government, local emergency planning committee or state agency, so long as the service is satisfactorily performed and the employee returns to his/her position the next scheduled workday after being relieved from service. An exception may be made if the employee is unable to return to work due to injury or circumstances beyond the employee's control if the employee notifies the employer as soon as practicable, but prior to the next scheduled work day. If such exception applies, additional leave shall be granted. Certified disaster volunteers of the American Red Cross may be granted up to 5 work days of paid administrative leave to respond to a disaster. Written documentation of the dates and times volunteer services were rendered shall be provided by the employee to the Administrative Authority upon return to work.

26.F.1.b. - **Volunteer Day of Service** - As provided for under the Volunteer Service Day guidelines, eligible employees are allowed to take the equivalent of one regularly scheduled workday per calendar year.

26.F.1.c. - **Employee Recognition** — Leave may be granted for merit pay, special accomplishments or contributions to the department.

26.G. – Victim Protection Leave – Victim protection unpaid leave shall be granted for up to 24 work hours (prorated for part-time employees) per calendar year for victims of stalking, sexual assault, domestic abuse or any other crime the underlying factual basis of which has been found by a court of record to include an act of domestic violence. An employee must have one year of continuous state service to be eligible and shall substitute paid time off to cover the absence if available. Victim Protection Leave is available for the following purposes: to seek a civil protective order; to obtain medical or mental health treatment for the employee and/or the employee's children; to secure safe housing; or to obtain legal assistance. All information related to a request for such shall be held confidential and maintained in a separate file other than the employee's personnel file with limited access.

26.H. – Office Closure Leave – Office closure leave with pay may be granted by the Administrative Authority as set forth in the Office Closure Guidelines when the office is closed due to weather or other emergency reasons. Such leave may only be granted for employees who are approved to work from home, physically present or scheduled to be physically present at the time of the closure and shall not apply to those who are either not scheduled to work or are on leave at the time of the closure.

26.I – Public Health Emergency Leave - When a Pubilic Health Emergency (PHE) has been declared, an employee shall be granted a one time allocation of 80 hours (prorated for part time classified employees) of Public Health Emergency Leave (PHEL) to use during the duration of the declared health emergency and until 4 weeks after the PHE is suspended or terminated for the following reasons:

(1) self-isolating or work exclusion due to exposure, symptoms, or diagnosis of the communicable illness in the PHE;

(2) seeking a diagnosis, treatment, or care (including preventive care) of such an illness;

(3) being unable to work due to a health condition that may increase susceptibility to or risk of such an illness; or

(4) caring for a child or other family in category (1)-(3), or whose school or child care is unavailable due to the PHE.

This time is separate from other earned or given leave types and is only available once during the duration of the declared PHE in effect. Documentation is not required to take this leave type.

26.J. – Leave Without Pay

26.J.1. – Granting of Leave Without Pay

26.J.1.a. – Up to 30 calendar days of leave without pay may be granted to an employee at the discretion of the Administrative Authority except as otherwise provided in these rules.

26.J.1.b. – When recommended by the Administrative Authority and approved by the State Court Administrator, or designee, an employee may be granted leave without pay for justifiable personal reasons for a period not to exceed a total of 12 months leave under Rule 26.J.

26.J.2. – Conditions and Limitations

26.J.2.a. – Unless otherwise specified in these rules, leave without pay shall not be granted until all accrued paid time off has been exhausted. Use of leave without pay must be authorized by the appropriate Administrative Authority, or such authority's designee, prior to being taken if the leave is not associated with qualified leave as defined in Rule 36.

26.J.2.b. – Periods of leave without pay shall not be credited as service for purposes of calculating accrual rates of paid time off or other benefits, unless otherwise specified in these rules. Length of service dates are adjusted one month forward for every 173 hours of leave without pay accumulated in the calendar year.

26.K. – Furlough Leave

26.K.1. – **Definition** – Furlough leave is a form of unpaid leave during which benefits, and service credit are earned and accrued as though the employee were at work.

26.K.1.a. – **Mandatory Furlough Leave** – At the State Court Administrator, or designee's discretion, mandatory furloughs may be imposed at any time.

26.K.1.b. – **Voluntary Furlough** – When the need arises due to budget constraints as determined by the State Court Administrator, or designee, an employee may request voluntary furlough with the approval of the Administrative Authority and the State Court Administrator, or designee.

26.K.2. – **Conditions and Limitations**

26.K.2.a. – Furlough leave may be taken prior to any other leave being taken.

26.K.2.b. – An employee's position shall not be filled by any means for such time that an employee is on furlough leave.

26.K.2.c. – Requests for furlough will only be considered when authorized by the Administrative Authority because of budget constraints. An employee on furlough shall earn paid time off and extended sick leave and continue to receive service credit as if the furlough had not occurred.

26.K.3. – **Leave Benefits** – No adjustment in computing length of service dates, seniority, earning of paid time off, extended sick leave, or leave accrual rates shall be made as a result of any such leave taken. These and other service benefits shall not be adversely affected except that retirement service credit and final average salary shall be determined in accordance with PERA rules and regulations.

26.L. – Educational Leave - Rule 26.L. regarding Educational Leave was abolished effective July 1, 2020. All references to Educational Leave have been removed from the Colorado Judicial System Personnel Rules.

26.M. – Military Leave

26.M.1. – In accordance with The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) 38 U.S.C. §§ 4301-4333, an employee who is a member of the National Guard or Armed Forces Reserve shall be granted military leave for training or service.

26.M.2. – Of this amount of time, a maximum of 15 working days in any calendar year shall be granted as military training leave with pay, which shall not be charged as any part of paid time off or other compensatory leave.

26.M.3. – After military leave with pay has been exhausted, military leave without pay shall be granted for the entire period of service plus any period of additional service imposed by law up to a total maximum of 5 years. Such leave is not a break in service.

26.M.4. – At the request of the employee, accrued paid time off shall be used before the employee is placed on active military leave without pay, regardless of the employee's length of service.

26.M.5. – The employee must provide to the Administrative Authority reasonable advanced notice of the need for military leave, unless notice is impossible, unreasonable or precluded by military necessity, and provide a copy of the official, written military orders in order to establish eligibility for protection under USERRA.

26.M.6. – Prior to returning to work, an employee on military leave shall submit a written request for reinstatement and provide a copy of his or her honorary discharge or other form of military release indicating the military service was satisfactory. An employee who fails to return at the time set forth below shall be deemed to have resigned:

26.M.6.a. – 1 to 30 calendar days: Not later than the beginning of the first regularly scheduled work day following the end of the military duty and the expiration of eight hours, plus reasonable commuting time from the military duty station to home.

26.M.6.b. – 31 to 180 calendar days: Written request for reinstatement must be submitted not later than 14 days after completion of military duty.

26.M.6.c. – 181 or more calendar days: Written request for reinstatement must be submitted not later than 90 days after completion of military duty.

26.M.7. – An employee who is discharged from military service under honorable conditions shall be reinstated immediately and shall be entitled to the following position:

a) 1 to 90 calendar days: Exact job
b) 91 or more calendar days: Exact job or a position of like seniority, status and pay
c) An employee may continue benefits coverage or cancel benefits coverage while on leave without pay and upon reinstatement shall be entitled to reinstatement of benefits coverage as well.
d) Reinstated employees shall have no adjustments in computing length of service dates or seniority as a result of military leave taken.

26.N. – Short-Term Disability

26.N.1. – **Purpose** – In the event of an injury or illness that prevents an employee from working, the State provides benefit eligible employees with Short-Term Disability Insurance which pays up to 60% income replacement (entered as leave without pay). Benefit-eligible employees may apply for short-term disability benefits at the onset of the illness or injury. If approved by the Short-Term Disability Insurance carrier, disability payments will commence after the required 30-day waiting period.

Short-term disability benefits are available for up to 180 days which includes any waiting period imposed by the insurance carrier.

26.N.2. – **Filing a Short-Term Disability Application** – Employees shall notify the Administrative Authority if they have an injury or illness that may qualify for short-term disability benefits. The Administrative Authority shall complete the employer section of the Short-Term Disability application. The employee must notify the Administrative Authority at the time that a benefit application is submitted to the short-term disability carrier.

26.N.3. – **Leave Provisions**

26.N.3.a. – **Waiting Period** – Short-Term Disability Insurance requires a 30-day waiting period (30 calendar days). During the waiting period, the employee shall use accrued leave in accordance with Rule 26.

26.N.3.b. – **Wage Replacement Options** – Effective July 1, 2020, an employee shall use accrued leave to augment the disability payments (be "made-whole") to receive pay for the portion of leave (40%) not paid by the Short-Term Disability Insurance carrier (the 60% income replacement paid by the insurance carrier will be entered as leave without pay). At the discretion of the Administrative Authority, employees may be granted leave without pay after Family and Medical Leave is exhausted, as provided for in Rule 26.I., if the employee has exhausted their accrued leave.

26.N.4. – **Continuation of Benefits** – Continuation of benefits shall be in accordance with Rule 27.D., if applicable.

26.N.4.a. – Family and Medical Leave – Family and Medical Leave, as defined in Rule 26, may run concurrently with leave related to short-term disability.

26.N.4.b. – Medically Certified Leave – If an employee is not eligible for Family and Medical Leave, Medically Certified Leave may run concurrently with leave related to short-term disability.

26.O. – Family and Medical Leave

26.O.1. – **Purpose** – Family and medical leave is a period of unpaid leave of absence that is granted to an eligible employee under circumstances and conditions specified below. Family and medical leave provide time off work, but do not provide for pay continuation during that time. Any continuation of pay during a period of family and medical leave will occur only if a pay continuation provision also applies during that time.

26.O.2. – **Eligibility** – To be eligible for family and medical leave, an employee must have been employed at least a total of 12 months with the State of Colorado on the date the leave is to commence and must have worked at least 1,250 hours during the 12 months preceding the date on which the leave is to commence. Actual work hours do not include any paid or unpaid leave as defined by these rules. The 12 months of total employment need not be consecutive months, and employment for any part of a week counts as a week of employment.

26.O.3. – **Granting of Family and Medical Leave** – Employees shall provide proper medical certification, including additional medical certificates and fitness-to-return certificates as set forth in these rules. If the employee does not provide the required medical certificates, the Family Medical Leave request may be denied. An eligible employee will be granted family and medical leave for one or more of the following reasons:

a) Inability of the employee to perform the functions of his/her position due to a serious health condition;
b) Attendance at birth of the employee's own child or at the birth of a child to be placed with the employee for adoption or foster care;
c) Bonding time with the employee's newborn or newly placed child if within 12 months after birth or placement;
d) Absences which are required before the placement of a child with the employee for adoption or foster care as necessary for the placement to proceed;
e) Serious health condition of employee's child, including adult children not living in the employee's home, spouse, domestic partner or partner in a civil union, parent, including parents not living in the employees home, OR the serious health condition of a person living in the employee's household for whom the employee is the primary caregiver, if such leave is medically necessary for the care of that person, child, spouse or parent or to assist in their recovery;
f) Qualifying exigency due to a spouse, domestic partner or partner in a civil union, child or parent being on or being called to active duty in the Armed Forces, including the National Guard and Reserves for deployment to a foreign country in support of a contingency operation. Please refer to 26.N.10.(h.) for a list of activities covered under qualifying exigency;
g) Care of employee's spouse, domestic partner or partner in a civil union, child, parent or next of kin who is a member of the Armed Service, including the National Guard and the Reserves or covered veteran within five years of service, with a serious injury or illness incurred in the line of duty while on active duty or which existed before the beginning of the service member's active duty and was aggravated by service in the line of duty while on active duty. A covered veteran is one who has been discharged or released under

conditions other than “dishonorable” within five years of the day the employee first takes leave for his or her care.

26.O.4. – **Maximum Length of Family and Medical Leave** – With the exception of leave taken to care for an injured military service member, the maximum combined total time allowed for family and medical leave is 12 work weeks in an event year basis, except in certain circumstances where both spouses work for the Judicial Department. A total of 26 workweeks of leave (including any other approved family and medical leave in a single 12-month period) are available to care for an injured or ill family member serving in the Armed Forces, as provided under this rule. For purposes of FMLA, an event year is defined as the 12-month period measured forward from the date of an employee’s first FMLA leave. If eligible for FMLA, an employee would be entitled to 12 weeks of leave during the year beginning on the first date FMLA leave is taken; the next 12-month period would begin the first time FMLA leave is taken after completion of any previous 12-month period.

A workweek for full-time employees is 40 hours in an established seven-day period. For part-time employees a workweek is a proportional amount of 40 hours based on the number of hours normally worked in an established seven-day period.

Where both spouses work for the Judicial Department, the spouses are limited to 12 workweeks of leave in total during an event year for leave that is taken for the birth of a child, for the placement for adoption or foster care of a child, for the care of a child after birth or placement or for the care of an employee’s parent with a serious health condition. Spouses are limited to an aggregate total of 26 workweeks of leave in a single 12-month period (including any other family and/or medical leave during that same period) for the care of a seriously injured or ill family member serving in the Armed Forces, as provided under this rule.

26.O.5. – **Substitution of Paid Leave** – Periods of family and medical leave shall run concurrently with any applicable accrued leave and/or any payment continuation plan to which the employee is eligible. The employee shall notify the Administrative Authority at the time a benefit application is submitted to the short-term disability carrier in accordance with Rule 26.N. Employees are required to use all available accrued leave, prior to taking leave without pay, as provided for under the Judicial Department’s accrued leave plan. Family and medical leave is without pay when available pay-continuation benefits are exhausted or not accessible.

Paid time off and extended sick leave will accrue during periods of unpaid family and medical leave. Designated holidays are granted during unpaid family and medical leave.

26.O.6. – **Request for Leave** – The employee should inform the supervisor of the need for leave through the regular request and authorization for leave of absence process. If the necessity for the leave is foreseeable, the employee must notify the supervisor of the request for leave 30 calendar days in advance, or as soon as practicable, before the leave is to commence. If the leave is unforeseeable, the employee should give notice to the supervisor of the need for leave as soon as practicable under the circumstances, normally within one or two working days.

The Administrative Authority will designate leave, paid or unpaid, as qualifying for family and medical leave based on information provided by the employee. In the event that the Administrative Authority does not have sufficient information about the reason for an employee's use of requested leave, the Administrative Authority may inquire further to ascertain whether the requested leave may qualify as family and medical leave. Family and medical leave may be approved conditionally pending receipt of required documentation.

Upon a determination that the requested leave may qualify as family and medical leave, the supervisor will so notify the employee and will request that the employee complete and submit such additional forms as are required for family and medical leave. The employee must complete the forms and provide appropriate documentation, as may be requested, to verify the reasons for the leave. Any request for leave based on a serious health condition, whether it involves the employee or a family member, must be supported by appropriate medical certification.

Failure of the employee to provide notification and appropriate medical certification within 15 calendar days may result in delayed approval. In all cases of leave for serious health condition, the Judicial Department reserves the right to request a second medical opinion at the department's expense and may request additional certifications at 30-day intervals, if appropriate.

26.O.7. – **Intermittent Leave/Reduced Work Schedule** – In limited circumstances as described below, an employee who is eligible for family and medical leave may be permitted to work a reduced schedule of hours per workweek or hours per workday or may take intermittent leave of separate blocks of time rather than one continuous period of time.

In cases of a serious health condition of the employee or a family member, such leave will be permitted only in circumstances when it is medically necessary. Appropriate medical certification will be required.

Where a reduced work schedule or intermittent leave is foreseeable based on planned medical treatment, the Judicial Department reserves the right to transfer the employee temporarily to another position with equivalent pay and benefits that better accommodates the employee's recurring periods of leave.

Employees who are eligible for family and medical leave to bond with a newborn or newly placed child must take the leave in a continuous block of time unless approved for intermittent leave or a reduced work schedule by the Administrative Authority. The Administrative Authority may review the individual circumstances involved in considering such requests and may take into account the employee's length of service, number of requests, duties, work load and employee's job performance in making such decisions.

Any leave granted, based on a reduced work schedule or intermittent leave, will be treated in the same manner as other absences of family and medical leave.

26.O.8. – **Continuation of Benefits** – An employee on unpaid family and medical leave will be retained on the Judicial Department's group insurance plans the same as active employees,

except that the employee must make arrangements with the person who processes payroll for the payment of the employee's portion of the insurance premiums. The Judicial Department will continue to pay the employer's share of the premiums throughout the unpaid family and medical leave period.

If the employee is able but does not return to work after the expiration of the leave, the employee will be required to reimburse the Judicial Department for any payment of employer shares of insurance premiums paid on their behalf by the Judicial Department during the family and medical leave.

26.O.9. – **Return from Family and Medical Leave** – An employee returning from family and medical leave will be reinstated to the same or an equivalent position. An equivalent position is one having virtually identical pay, benefits and working conditions and involving the same or substantially similar duties and responsibilities.

A completed and signed Fitness to Return to Work form is required to verify an employee's ability to return to work following any hospitalization, or absence of more than 3 working days due to the employee's serious health condition, or for any absence where reasonable job safety concerns exist. Failure to provide this form may result in a delay of the employee's return to work. Once a health care provider has certified that an employee on family and medical leave is physically able to perform his or her work duties, the Administrative Authority or designee may require that the employee return to work by a specific date, unless continued time away from work is authorized under other provisions of these rules. Failure to report to work on the specified date may result in disciplinary action.

26.O.10. – **Definitions** – The following terms shall have the stated meanings:

a.) CHILD: A biological, adopted, foster, or step son or daughter, a legal ward or a child with whom a person stands "in loco parentis" who is under the age of 18, or if 18 years or older, is incapable of self-care because of a mental or physical disability.
b.) DOMESTIC PARTNER: An individual with whom the employee is in a domestic partnership registered with a city of domicile or the state.
c.) CIVIL UNION: The legal relationship between 2 unmarried adults, regardless of gender, certified and licensed as a civil union by a county clerk and recorder.
d.) HEALTH CARE PROVIDER: A licensed Doctor of Medicine or osteopathy, podiatrist, dentist, clinical psychologist, optometrist or chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist), nurse-practitioner, nurse-midwife or clinical social worker working within the scope of that person's practice; or Christian Science practitioner.
e.) IN LOCO PARENTIS: A person who has assumed and discharges the obligations of a parent to a child by taking on the responsibilities for day-to-day care or financial support of the child, regardless of any legal or biological relationship.
f.) INCAPACITY: Inability to work, attend school, or perform other regular daily activities.

g.) PARENT: The biological, adoptive, step, or foster parent of an employee, or an individual who stood in loco parentis to an employee when the employee was a child. This term does not include parents “in law”.

h.) PHYSICAL OR MENTAL DISABILITY: An impairment that substantially limits one or more of the major life activities of an individual.

i.) PRIMARY CAREGIVER: A person who has primary responsibility for the care of another person, for attending to that person’s physical and emotional needs.

j.) QUALIFYING EXIGENCY: Certain activities which arise when a military spouse, child or parent of an employee is deployed to covered active duty in a foreign country including without limitation: attending military sponsored events and related activities such as official ceremonies, programs, military personnel and/or family support or assistance programs, counseling sessions, and informational and post-deployment briefings; making necessary financial and legal arrangements; arranging alternative child care and related activities; arranging alternative care of a parent who is incapable of self-care and related activities; taking leave for up to 15 calendar days to be with a covered military family member while on short-term temporary rest and recuperation leave during deployment; and other activities agreed to by the Administrative Authority as a qualifying exigency, including issues arising from short notice (seven days or less) deployment.

k.) SERIOUS HEALTH CONDITION: An illness, injury, impairment, or physical or mental condition that involves:

i. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or treatment in connection with or consequent to such inpatient care.

ii. Continuing treatment by a health care provider, which includes a period of incapacity of more than 3 calendar days or treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. Treatment includes, but is not limited to, diagnostic examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

iii. Any period of incapacity due to pregnancy, prenatal care, or the birth of a child.

iv. Continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days.

v. Any period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective, but which requires continuing supervision by a health care provider.

vi. Any period of incapacity of 3 calendar days or more involving continued treatments by or under the supervision of a health care provider for restorative surgery after an accident or other injury. Voluntary or cosmetic treatments which are not medically necessary are not serious health conditions unless inpatient hospital care is required.

l.) SPOUSE: Husband or wife as defined or recognized under Colorado law for Purposes of marriage, including common law marriage.

26.P. – Volunteer Firefighter Leave – The Administrative Authority shall allow the absence of an employee who is a volunteer firefighter to respond to an emergency summons so long as the employee is not deemed essential to the operation of court and probation services. To qualify for such leave, the employee must have previously provided written documentation from the Fire Chief notifying the Administrative Authority of the employee's status as a volunteer firefighter; the emergency must be within the response area of the Fire Department for which the employee volunteers and of such magnitude that the emergency summons issued requires all firefighters of the Department to respond; and the employee must provide the Administrative Authority with a written statement from the Fire Chief verifying the time, date and duration of the employee's response. All leave taken shall be in accordance with Rule 26, if applicable.

26.Q. – Sabbatical Leave – The State Court Administrator, or designee, may at times enact a policy related to sabbatical leave as a form of unpaid leave**.**

Rule 27 - Benefits

27.A. – General Principles - This rule applies to all employees eligible for the State of Colorado benefits plan. The Colorado Judicial Department reserves the right to add, modify, or discontinue any state group benefits as deemed necessary.

27.B. – Employee Responsibilities - Employees are responsible for knowing, understanding, and adhering to these rules, plan documents for the terms and conditions of coverage, and eligibility and enrollment requirements in order to make timely and informed choices and will be responsible for the impact of those choices once made. Plan documents can be found on the State benefits website.

27.C. – Eligibility - Employees and their dependents must meet the eligibility requirements as defined in state law, plan documents, and applicable personnel rules to qualify for enrollment in the state group benefit plans.

27.D. – Coverage of Benefits - Coverage in group benefit plans is effective on the first day of the month following the date of hire or initial eligibility unless otherwise specified by the benefit contracts, law, or regulations. All coverage is prospective from the date of entry into the official benefit administration system or date of the qualifying event, whichever is later, except for initial coverage for new employees and newborn children. Elections made during open enrollment are effective the first day of the new plan year. Termination of coverage is subject to applicable law and regulation, plan documents, and contracts consistent with the below provisions.

27.D.1. - If at any time during the plan year, any dependent ceases to meet the eligibility criteria, coverage ends on the last day of the month in which that dependent becomes ineligible.

27.D.2. - Coverage in state group benefit plans is terminated on the last day of the month that employment ends.

27.E. – Payment of Contributions - Employees must make an irrevocable election for the plan year to have contributions deducted on a pre-tax or after-tax basis as defined by the State of Colorado Salary Reduction Plan, law and regulations, rule, and written directives. After an election has been made, employees can only change their contribution tax status during the open enrollment period. The employee's contribution is deducted from the employee's pay or, under certain circumstances, paid by personal payment for the selected state group benefit plan. Employees are responsible for benefit premiums from the effective date of the coverage. If it is discovered that benefit premiums in whole or in part were not withheld from the employee's paycheck, a deduction for the amount will be taken from subsequent paycheck(s) or paid by the employee through personal payment.

An enrolled employee who works or is on qualified leave one or more regularly scheduled, full workdays in a month is eligible for the full state benefit contribution. When an employee is on leave, the Judicial Department shall continue to pay the state contribution for noncontributory, fully paid benefits (e.g., life and short-term disability) as long as the employee remains on the payroll, regardless of status.

27.E.1. - During qualified leave or mandatory furlough, the employee contribution continues to be paid through payroll deduction and the Judicial Department continues to pay the state contribution.

27.E.2. - During unpaid leave the employee shall pay the total premium (employee and employer contributions) to the Judicial Department within the month of coverage, except as follows.

27.E.2.a. - During unpaid family and medical leave, the Judicial department shall continue to pay the state contribution as long as the employee continues to pay the employee contribution by the due date specified in the family and medical leave notice. If the employee fails to pay the employee contribution when due, coverage may be terminated but shall be reinstated upon return to work. In the event any contributions are owed upon the employee's return to work or should the employee fail to return to work, such contributions shall be collected from the employee. If the employee fails to return after the leave, any contributions due may be recovered as specified by federal regulations.

27.E.2.b. - While an employee is on voluntary furlough, medically certified leave, short-term disability, workers' compensation leave, or disciplinary suspension, the Judicial Department shall continue to pay the state contribution as long as the employee continues to pay the employee contribution in a timely manner. If the employee fails to pay the employee contribution by the due date, coverage may be terminated, and the employee must wait for the next annual open enrollment to re-enroll.

27.E.3. - An employee on unpaid military leave will be retained on the Judicial Department's group insurance plans the same as active employees, except that the employee must make arrangements with the person who processes payroll for the payment of the employee's portion of the insurance premiums. The Judicial Department will continue to pay the employer's share of the premiums throughout the duration of unpaid military leave.

27.F. – Appeal Procedures - Appeals of eligibility for state group benefit plans must be submitted in writing to the state personnel director, at the address below, within 20 calendar days of receipt of the ineligibility decision. Use of the standard "Colorado State Employees Group Benefits Eligibility Determination Appeal Form" found on the Director's website is required.

Department of Personnel and Administration
Division of Human Resources
1525 Sherman Street, 2nd Floor
Denver, CO 80203

The Director will issue a final written decision. The ineligibility decision will be overturned only if found to be arbitrary, capricious or contrary to rule or law. Appeals of denied claims under any of the state group benefit plans shall follow the specific appeal process provided by the plan defined in the specific contract, plan document, summary plan description, or regulated entity. The provider will issue a final written decision in accordance with its process.

27.F.1. - Appeals of denied claims under fully insured plans are regulated by the State of Colorado Division of Insurance and follow the plan's appeal process as defined in the contract and plan document.

27.F.2. - Appeals of denied claims under self-funded plans are not regulated by the State of Colorado Division of Insurance and follow the third-party administrator's appeal process as defined in the contract and plan document.

27.G. – Colorado State Employee Assistance Program - Services provided include, but are not limited to, counseling services, crisis intervention, consultations with supervisors and managers, facilitated groups, trainings, and workshops. All Judicial Department employees may participate in the program.

27.G.1. -The program may request the participation of other persons if necessary, to provide effective assistance to the employee.

PART 7

EMPLOYEE APPRAISAL & DISCIPLINE

Rule 28 - Performance Appraisal of Employees

28.A. – Annual Performance Appraisals

28.A.1. – The State Court Administrator, or designee, shall establish a system for annual appraisal of the job performance of all employees. The annual appraisal period shall be January 1 through December 31. This period shall be considered the annual appraisal period. An employee must be employed by December 31st of the appraisal year in order to be included in the annual performance appraisal process.

28.A.2. – The job performance of each employee shall be appraised in accordance with procedures established by the State Court Administrator, or designee.

28.B. – Appraisal Report Content

28.B.1. – The State Court Administrator, or designee, shall provide appraisal report forms, which shall include, but not be limited to, the rating of the employee's overall performance.

28.B.2. – The report shall include, but not be limited to, appraisal of the employee's performance in specific areas related to the job as measured against standards established by the State Court Administrator, or designee, as well as recommendations for improvement where appropriate. An evaluator shall also include comments on each scoring criteria which provides information regarding strengths and weaknesses.

28.B.3. – **Scoring** – Evaluators may not give an overall perfect score of 6 on the performance appraisal. However, the evaluator may score a 6 on individual criteria. When an evaluator provides a perfect score on all criteria, the appraisal shall be rejected and returned for revision. The Administrative Authority shall oversee the second appraisal for compliance.

28.B.4. – **Failure to complete a performance appraisal** – The responsibility for completing performance appraisals shall be assigned to the supervisor, except that when no performance appraisal has been completed by the supervisor, the Administrative Authority or designee shall complete the appraisal. To be deemed “completed” a supervisor must complete the evaluation, and also meet with and discuss the evaluation with the employee by June 30th of the appraisal year. If an employee is on authorized leave during this time, the supervisor must meet with the employee within 15 calendar days of the employee’s return. Appropriate corrective or disciplinary action shall be considered for failure of a supervisor to complete an appraisal.

28.C. – Appraisal Procedure

28.C.1. – The appraisal of an employee shall be made by the supervisor to whom the performance appraisal has been delegated and approved by the Administrative Authority.

28.C.2. – Essential functions scores and any comments may be altered or eliminated after the completion of the appraisal by the supervisor if approved and requested by the Administrative Authority.

28.C.3. – A copy of the performance appraisal shall be provided to the employee. An appraisal meeting shall be held between the evaluator and the employee. The Administrative Authority may elect to attend the conference. All participants shall sign the performance appraisal cover page. The employee's signature on the performance appraisal cover page, or electronic acknowledgement through the performance appraisal software, shall indicate that the employee has seen the appraisal, but not necessarily that the employee agrees with the content.

28.D. – Employee Request for Review – An employee may request a review of the appraisal in writing to the Administrative Authority within 5 working days after the appraisal meeting. The Administrative Authority shall review the appraisal, soliciting input from the party's direct supervisor, as deemed appropriate.

The Administrative Authority shall render a decision in writing within 30 calendar days after receipt of the request for review, which shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

28.D.1. - An employee whose performance appraisal is completed by the Administrative Authority may request a review of the appraisal in writing to the next line of authority within 5 working days after the performance appraisal meeting. If no next line of authority exists, the employee may request a review by the Director of Human Resources. The Director of Human Resources shall review the appraisal and may provide recommendations to the Administrative Authority within 30 calendar days after receipt of the request for review. This review shall be final and shall not be subject to the appeal or review procedures set forth in these rules.

Classified employees, except for those employees found under Colorado Judicial System Personnel Rule 35.B may file a request for review of their performance appraisal for the following reasons:

1) The performance appraisal comments could be construed as discriminatory in nature;
2) A certified employee was placed on performance probation as a result of a score of 2.75 or below;
3) The employee did not receive a performance appraisal; or
4) No comments were provided in order to substantiate the numerical scores given;
5) Performance activity that is documented in a performance appraisal which did not occur during the performance appraisal period in which the employee was to be evaluated.

28.E. – Effect of Appraisal

28.E.1. – **Satisfactory Appraisal** – If a classified employee's (except Law Clerks, Appellate Law Clerks, and Senior Appellate Law Clerks), overall performance rating is 3.0 or above on the annual performance appraisal, pay for performance may be granted in accordance with the annual compensation plan.

28.E.2. – **Unsatisfactory Appraisal**

28.E.2.a. – Employees who receive a performance rating of 2.99 or below shall not be given a performance increase. Employees scoring 2.75 or below shall not receive a performance increase and shall be placed on performance probation for a period of 90 calendar days. The employee's performance shall be re-evaluated by the supervisor, with final approval of the evaluation by the Administrative Authority prior to the expiration of the 90-calendar day probationary period. Probationary and interim performance appraisals conducted outside of the annual performance period are not eligible for pay for performance increases. An employee on performance probation retains his/her status as a certified employee during the performance probation period.

28.E.2.b. – If at the end of the period of performance probation the employee's performance is rated 2.76 or above, the employee shall not receive a performance increase and does not become eligible for a performance increase until the next annual review period as administered by the State Court Administrator’s Office.

28.E.2.c. – If at the end of the period of performance probation a certified employee's performance is evaluated as 2.75 or below, the employee shall be subject to corrective or disciplinary action.

28.F. – Performance Documentation – The performance appraisal cover page shall be placed in the employee’s personnel file. All other reports provided to the employee are for the employee and supervisor’s purposes of professional development and shall not be placed in the personnel file.

Rule 29 - Corrective & Disciplinary Actions

29.A. – Responsibility

29.A.1. – The responsibility for administering corrective and disciplinary actions shall be vested in the Administrative Authority. As the foremost Administrative Authority for the Judicial Department, the Chief Justice of the Supreme Court may take corrective or disciplinary action over any employee within the Judicial Department, consistent with these rules. At-will employees, including those listed under Rule 35.B., are not subject to the procedures for corrective or disciplinary action set forth in this rule.

29.A.2. – In determining whether to administer a corrective or disciplinary action the Administrative Authority may consider the nature, extent, seriousness and effect of the act, error or omission committed; the type and frequency of previous undesirable behavior; the period of time that has elapsed since a prior offensive act; the previous performance appraisal of the employee; an assessment of information obtained from the employee; and any mitigating circumstances. The Administrative Authority will also consult with the Human Resources Division before administering any corrective or disciplinary action.

29.B. – Corrective Action

29.B.1. – A corrective action is a written warning, reprimand or censure which is taken to correct and improve an employee's job performance or behavior, and which does not affect the employee's current pay, status or tenure.

29.B.2. – Actions may be administered for the causes listed in section D.1. of this rule.

29.B.3. – Corrective actions may be administered concurrently with disciplinary actions.

29.B.4. – Except for those employees listed in Rule 35.B, prior to administering a corrective action the Administrative Authority shall meet with the employee involved to present information regarding the reasons for considering corrective action and to give the employee the opportunity to respond or present mitigating evidence. This meeting is not a formal hearing, and there shall be no right to legal counsel or other representative for any participant.

29.B.5. – A corrective action shall be in writing and shall contain the following information:

a) The area(s) of needed improvement;
b) The specific corrective action being imposed, and the reasons for its imposition, including specific details of the offense and policies or rules that were violated;
c) The remedial step(s) the employee must take to make the improvement(s);
d) The time allotted to the employee to make the improvement(s);
e) The consequences the employee will face for failure to improve;
f) The signature of the Administrative Authority administering the corrective action;
g) The signature of the employee acknowledging receipt of the corrective action.

29.B.6. – A signed copy of the corrective action, if available, shall be placed in the employee's personnel file. A copy shall also be forwarded to the Director of Human Resources.

29.B.7. – The corrective action may, at the discretion of the Administrative Authority, be removed from the employee's personnel file after a period of 2 years of satisfactory performance following a corrective action, including satisfactory performance in the areas identified in the corrective action, upon written request of the employee. A corrective action may contain a statement that the action may be removed from the employee's personnel file after a specified period of time less than 2 years if the employee satisfactorily complies with the terms of the corrective action. A copy of any corrective action removed from an employee's personnel file may not be a basis for any subsequent corrective or disciplinary action but may be considered as evidence that the employee was on notice of the problems identified therein. Any removed corrective action shall be clearly marked as such and maintained, along with the request for removal, by the Administrative Authority in the Personnel Records System. The copy of the corrective action on file in the Human Resources Division will not be removed upon the same circumstances.

29.B.8. – The decision of the Administrative Authority with regard to corrective actions is final and is not subject to the appeal or review procedures set forth in these rules.

29.C. – Disciplinary Action

29.C.1. – A disciplinary action is an action taken to penalize an employee for an offensive act or poor job performance. A disciplinary action adversely affects the current pay, status or tenure of the employee, and may include suspension, demotion, pay adjustment to a lower salary in the assigned pay range, dismissal, or any other appropriate action affecting the current pay, status or tenure of an employee.

29.C.2. – Disciplinary actions may be administered concurrently with corrective actions and may be administered whether or not any corrective action has been taken prior to the disciplinary action.

29.C.3. – The disciplinary action of dismissal may be administered whether or not disciplinary action of a lesser nature was taken prior to the dismissal.

29.C.4. – Disciplinary actions may be administered for causes listed in section D.1. of this rule.

29.C.5. – Except for those employees listed in Rule 35.B., prior to administering a disciplinary action, the Administrative Authority shall issue a pre-disciplinary action letter and schedule a meeting with the employee involved to present information regarding the reasons for considering discipline and to give the employee an opportunity to respond or to present mitigating evidence. This meeting is not a formal hearing; however, the participants shall have the right to be represented by legal counsel, but no other representative, in accordance with Rule 25. A 10-calendar day notification period shall be provided to the employee before a pre-disciplinary meeting can be held. If the employee chooses, the employee may respond in writing rather than

attend the meeting. Any written response shall be received by the Administrative Authority by the scheduled meeting time.

29.C.6. – If the Administrative Authority is contemplating a disciplinary action but reasonable efforts to notify the employee of the pre-disciplinary meeting fail, the Administrative Authority shall send the pre-disciplinary action letter and notice of meeting to the last known address of the employee indicating the possible need to administer disciplinary action and the reasons therefore. If the employee fails to appear at the pre-disciplinary meeting or respond in writing by the scheduled meeting time, the Administrative Authority may proceed with the disciplinary action.

29.C.7. – If disciplinary action is imposed, the Administrative Authority shall advise the employee in writing. The notice shall include:

a) The specific disciplinary action being imposed, and the reasons for its imposition, including specific details of the offense;
b) The remedial action to be taken, if any;
c) Notification that a second disciplinary action will result in termination, if appropriate; and
d) A statement of the employee's right, if any, to appeal the disciplinary action, including the time limit in which an appeal must be filed, and the name and address of the person with whom it is to be filed.
e) The signature of the Administrative Authority administering the disciplinary action.
f) The signature of the employee acknowledging receipt of the disciplinary action.

29.C.8. – One copy of the disciplinary action notice shall be placed in the employee's personnel file and shall not be removed. A copy shall also be forwarded to the Director of Human Resources.

29.C.9. – Except for the employees listed in Rule 35.B., an employee who has received a disciplinary action pursuant to this rule may request review of the action as provided in Rule 35.

29.D. – Causes for Corrective or Disciplinary Action

29.D.1. – Corrective or disciplinary action may be administered for causes, which shall include but not be limited to:

a) Failure to comply with requirements for acceptable job performance.
b) Misconduct, which includes, but is not limited to, violation of any department or local rule, procedure or policy.
c) Insubordination.
d) Failure or inability to perform duties assigned. For purposes of this rule, inability to perform duties assigned does not include inability for physical or mental reasons, which is covered by Rule 32.
e) Leave without pay without the proper authorization of the Administrative Authority, or inappropriate use of paid leave for a non-medically certified absence, if applicable.

f) Violation of any federal, state or local criminal code when such offense adversely affects the employee's ability or fitness to perform duties assigned or may have an adverse effect on the Judicial Department if the employee continues such employment. Any corrective or disciplinary action imposed under this section shall be in addition to suspension imposed under section 29.E. of this rule.
g) False statement of any material fact, or practice or attempted practice of deception or fraud, including such misconduct occurring in the application, examination, or interview process for employment.
h) Violation of any Colorado Judicial Department rule, policy, or Chief Justice Directive, including, but not limited to, Chief Justice Directive 07-01 Concerning Use of Software Products on State-Owned Computers, or the Electronic Communications Policy.

29.D.2. – The employee shall be dismissed upon conviction of any felony. Conviction shall include a plea of nolo contendere or acceptance of a deferred sentence.

29.E. – Suspension of Employees under Disciplinary Investigation or Charged with a Crime

29.E.1. – **Notification** – An employee who is arrested or charged with any felony, any misdemeanor, or any traffic offense involving drugs or alcohol, or petty offense involving drugs or alcohol, shall notify his/her Administrative Authority within 3 calendar days of being arrested or charged. Within 3 calendar days, the employee must notify the Administrative Authority of any updates to the charges, court dates, status of the case, and upon final resolution of any filed charges.

29.E.1.a. – **Suspension** – An employee charged with a felony shall be suspended and allowed to use accrued paid time off from the date of the suspension. Employees charged with a misdemeanor, or traffic offense involving drugs or alcohol, or petty offense involving drugs or alcohol may be suspended at the Administrative Authority's discretion dependent upon the type of work the employee performs and the impact of the evidence presented in the underlying charge on the employee's ability to perform in the position. An employee shall be allowed to use accrued paid time off from the date of the charge. After the exhaustion of paid time off, the employee shall be informed of the exhaustion of all paid time off and placed on leave without pay pending the outcome of the action, including any appeal, or may separately be subject to corrective or disciplinary action. If the employee is not convicted, and if the employee has not otherwise been dismissed pursuant to the procedures of these rules, the employee shall be restored to the position and granted full pay and service credit for the period of suspension. If the employee is convicted, the employee shall not be compensated for the period of suspension. Conviction includes any plea or finding of guilt, including a plea of nolo contendere or acceptance of a deferred judgment and sentence. If the charges are dismissed and the employee has not separated from employment, the employee shall be compensated for the period of suspension and any used paid time off during the suspension shall be restored to the employee's accruals.

29.E.2. – An employee may be given an administrative suspension with pay during the period of investigation of the employee's conduct relative to pending disciplinary action when there is reason to believe that the employee's continued presence may endanger the safety or welfare of the public, the Judicial Department's employees, facilities, or property, or when there is reason to believe that the employee's presence may impair the investigation. The Administrative Authority shall provide the employee with written notice of an administrative suspension and the reasons therefore by certified mail or by personal delivery to the employee. The employee shall be compensated for full pay and service credit for the period of suspension.

29.F. – Corrective and Disciplinary Action Limitations

29.F.1. – An employee may not be corrected or disciplined more than once for a single specific act or violation but may be corrected or disciplined for each additional act or violation of the same or similar nature.

29.F.2. – No more than 2 corrective actions shall be imposed on an employee in any consecutive 12-month period. Disciplinary action shall be taken for any further violation or offense during the same period.

29.F.3. – Suspension of an employee without pay for the purpose of disciplinary action shall be limited to 30 calendar days, except as follows:

(a.) If the board or hearing officer reverses a dismissal, but finds valid justification for the imposition of a disciplinary action, the board or hearing officer may substitute a suspension for the period of time up to the time of the decision;

(b.) In a case of suspension or administrative leave pursuant to section 29.E. of this rule, the period of suspension is not limited.

PART 8
SEPARATION FROM SERVICE

Rule 30 - Resignations

30.A. – Resignation Procedure

30.A.1. – In order to resign, an employee shall submit a written resignation to the supervisor or the Administrative Authority at least 10 working days prior to the date the resignation is to be effective.

30.A.2. – The Administrative Authority may for good cause accept a lesser period of written notice than required by section A.1. of this rule.

30.A.3. – Failure of an employee without good cause to submit a resignation in accordance with section A.1. of this rule may result in the separation being administered as a dismissal.

30.A.4. – Either the Administrative Authority or the employee may request an exit interview.

30.A.5. – The effective date of resignation shall be deemed to be the employee's last day at work unless a different date is determined by agreement between the Administrative Authority and the employee.

30.B. – Withdrawal of Resignation – At the discretion of the Administrative Authority, the employee may for good cause withdraw the resignation at any time prior to its effective date.

30.C. – Resignation While under Disciplinary Action – An employee who resigns in lieu of disciplinary action or while under suspension or while awaiting disciplinary action shall forfeit all rights to any appeal or review concerning the suspension or disciplinary action.

30.D. – Absence Without Approved Leave – An employee who is absent without approved leave for a period of three or more consecutive scheduled working days may, at the discretion of the Administrative Authority, be deemed to have resigned at the close of working hours on the third day.

30.E. – Reinstatement

30.E.1. – If within 180-calendar days following resignation, a certified employee who resigned for non-disciplinary reasons is hired back into the same job classification in which the employee was employed at the time of the resignation, the employee shall have status as a reinstated employee, and shall regain the certification to that job classification.

30.E.2. – For a reinstated employee the rate of compensation shall be governed by provisions of Rule 11.B., length of service date shall be established in accordance with Rule 36.A.53, and paid time off shall be earned and accrued in accordance with Rule 26.A.1.d..

Rule 31 – Staff Reduction

31.A. – Separation by Layoff – A classified employee may be involuntarily separated from service in the classified system because of reorganization due to budgetary considerations or events.

31.B. – Announcement of Layoff – The State Court Administrator, or designee, at any time may announce a need for layoffs for any district. When the State Court Administrator, or designee, has determined the budget amount, or number classes of positions to be abolished, reduced, or vacated, the Administrative Authority shall administer any resulting layoff of employees in accordance with the provisions of this rule.

31.C. - Establishment of Layoff Plan Review and Approval - Upon the announcement for the need for layoffs, the Administrative Authority, or designee, must submit a layoff plan to the Human Resources Division for review. The Human Resources Division shall ensure coordination of information with other divisions at the State Court Administrator's Office, including obtaining approval by the State Court Administrator, or designee. Prior to conducting a layoff of any position, the Administrative Authority, or designee, must receive layoff plan approval from the State Court Administrator, or designee. Notification of layoff to employees may only be announced after final approval of the layoff plan by the State Court Administrator, or designee. Layoff plans for Offices of the State Court Administrator shall be submitted to the Chief Justice and Justices of the Supreme Court for review and approval.

31.D. - Administration of Layoff - When the State Court Administrator, or designee, has determined the budget dollar amount, or number or classes of positions to be abolished, reduced, or vacated, the Administrative Authority shall administer any resulting layoff of employees in accordance with the provisions of this rule.

The administration of layoffs shall occur in order as below, starting with Rule 31.E. for districts that are deemed overstaffed in accordance with the rest of the state. If the reduction of employees affected by Rule 31.E. and Rule 31.F. sufficiently reduces the number of positions required, transfer of classified staff may occur in order to redistribute staff statewide.

If further reductions are required after layoffs described in Rules 31.E. and 31.F, procedures in Rule 31.G. shall be followed in any district.

31.E. - Voluntary Separation Incentives and Severance Pay — A Voluntary Separation Incentive (VSI) or Severance Pay are discretionary payments or agreements that may be offered to certified, classified employees pursuant to Rule 33., when a layoff may happen or has happened based upon documented lack of funds, lack of work, or reorganization.

31.F. –Transfers and Demotions

31.F.1. – **Transfers -** During a time of an announced layoff, a district with a vacant position may fill that position with a transfer of an employee, approved by both the State Court Administrator, or designee, and the receiving Administrative Authority. The district who accepts a transfer employee will not be required to post the position as required by Rule 18.A. An employee transferred to another position during a layoff shall receive written notice of the decision which shall not be subject to the appeal or review procedures set forth in these rules.

31.F.2. - **Demotions** - The Administrative Authority, at their discretion, may allow an employee in good standing to demote in lieu of layoff prior to conducting layoffs in the affected class to which the employee demotes. The employee may only demote into a class in which the employee was previously certified. If an employee demotes to a lower class position, they must follow the voluntary demotion Rule 13.B.3.b. An employee transferred or demoted to another position during a layoff shall receive written notice of the decision which shall not be subject to the appeal or review procedures set forth in these rules.

An employee is good standing shall be defined as having scored a 3.0 or higher on the most recent performance appraisal and not having received a combination of two or more corrective or disciplinary actions in the previous 24 months.

31.G. – Priorities for Involuntary Layoffs – When the State Court Administrator, or designee, has announced the need for layoffs, and if further reductions are required after reductions described in Rules 31.E, and 31.F they shall occur in the following order:

31.G.1. – Employees issued any combination of two or more of the following disciplinary and/or corrective actions within 24 months from the date the State Court Administrator, or designee, announces the need for layoffs. Employees shall be laid off in the following order:

(a.) Two or more disciplinary actions
(b.) One disciplinary action and one or more corrective actions
(c.) Two or more corrective actions

31.G.2. – Employees currently on Performance Probation as defined in Rule 28.E.2.

31.G.3. – Employees who were issued a score of 2.75 or below on both of the 2 most recent performance appraisals completed in accordance with Rule 28.C beginning with the employee with the lowest two-year average score.

31.G.4. – Employees not affected by the provisions of Rules 31.G.1 - 31.G.3 shall be subject to layoff based on their retention scores as calculated in accordance with this rule based on a formula taking into consideration an employee's job performance, the employee's length of service and group assignment. All non-grant contract employees and probationary employees in an affected class and location identified for layoff in this rule must be displaced before certified employees as part of secondary layoffs. Employees shall be laid off in the following order:

a. Non-grant funded contract employees
b. Probationary Employees
c. Certified Employees

For the purposes of this section, grant contract employees are defined as being paid from non-judicial state agency granted funds, federal grants or other non-judicial grantors.

31.G.5. – **Special Qualifications** – An employee filling a position with special qualifications as approved by the State Court Administrator, or designee, shall not be laid off. An exemption based on special qualifications must be preapproved on an individual basis and recorded by the State Court Administrator, or designee. No exemption may be given to employees who would be affected by the provisions of Rules 31.G.1 – 31.G.4

31.H – Reinstatement After Involuntary Layoff – Employees returning within 180 days after Involuntary Layoff will be reinstated pursuant to Rule 30.E.

31.I. – Calculating Retention Scores – A retention score will be generated for each employee in a designated affected group and titled "retention score" using a calculation developed by the Human Resources Division and approved for statewide use by the State Court Administrator, or designee.

31.I.1. – The retention score formula shall be weighted at seventy-five percent performance and twenty-five percent length of service time band. Retention scores shall be calculated by the Human Resources Division.

31.I.1.a. – All employees affected by the layoff shall be notified by the Administrative Authority, or designee, of their individual retention score and how the score was calculated after the submission of the final layoff plans to the State Court Administrator, designee.

31.I.1.b. – Employees who occupy more than one position shall have a retention score calculated for each position.

31.I.1.c. – The formula used for determining retention scores is a matter within the discretion of the State Court Administrator, or designee, and not subject to appeal or review. Employees shall be given a minimum of ten calendar days to review and either confirm or appeal their retention score with the Human Resources Division. An employee may appeal a retention score to the Human Resources Director who shall make a final determination within five calendar days of the appeal.

31.I.2. – **Time Bands and Length of Service** – For the purpose of determining retention scores, an employee will receive credit for length of service based on time bands. Length of service shall be counted from the employee's effective date of initial employment, including time spent on contract, less any periods of unpaid leave, excluding family and medical leave without pay, workers' compensation leave, furlough leave, and qualified military leave. Time between the date of separation and re-employment shall be counted as continuous employment. Any time between a date of separation and reinstatement shall be counted as leave without pay. Only one length of service date shall be calculated for each employee.

31.I.2.a. – A part-time employee shall have length of service and assignment to a time band computed as an equivalent amount of full-time service.

31.I.2.b. – For employees returning from retirement, length of service shall be calculated from the date of rehire unless the employee is being reemployed within the two year period after a voluntary layoff.

31.I.2.c. – Veteran's preference shall be awarded to eligible employee's length of service time band. An honorably discharged veteran who has served less than 20 years in active military service and is eligible for veteran's preference under section 15(3) of article XII of the Colorado Constitution, shall be given length of service credit up to 10 years for time served in the military which shall be added to the length of service calculation used to determine the employee's retention score.

In order to receive credit, the veteran must have been separated under honorable conditions and served for purposes other than training, served in any branch of the armed forces of the United States during any period of any declared war, any undeclared war, other armed hostilities against an armed foreign enemy, served on active duty in any such branch in any campaign or expedition for which a campaign badge is authorized. To confirm the validity of veteran status and receive preferential treatment, employees must provide DD214 documentation. In addition, individuals identified as part of one of the categories listed below shall receive the same preference:

31.I.2.c.i. – Employees who, because of disability incurred in the line of duty, are receiving monetary compensation or disability retired benefits by reason of public laws administered by the Department of Defense or the Veterans Administration, or any successor thereto; or

31.I.2.c.ii. – Employees who are the surviving spouse of any person who was or would have been entitled to additional points under sections 16.A.3.d or 16.A.3.d.i., but who died during such service or as a result of service-connected cause while on active duty in any such branch, other than for training purposes.

31.I.2.d. – **Time Band Assignment** – Length of service dates shall be assigned to a time band for the purposes of calculating retention scores as follows:

Time Band 1	1.00-1.99 Years of Service	1 point
Time Band 2	2.00-5.99 Years of Service	2 points
Time Band 3	6.00-9.99 Years of Service	3 points
Time Band 4	10.00-14.99 Years of Service	4 points
Time Band 5	15.00-19.99 Years of Service	5 points
Time Band 6	20 or more Years of Service	6 points

31.I.3. – **Performance Scores** – For the purpose of calculating retention scores, a performance score shall be calculated for each employee based on the two most recent performance appraisal scores as indicated on the most recent pay for performance calculators certified by the PMT. If the employee has been employed less than 2 performance cycles, then their score shall be equal to their most recent performance appraisal score. If the employee was eligible for a performance appraisal and no appraisal was completed pursuant to Rule 28, the Admin Authority or designee will conduct a performance appraisal. When no performance score has been given because the employee is a probationary employee, and a tie occurs in length of service between 2 or more employees in the same group, the supervisor(s) shall complete an interim performance appraisal. The interim performance appraisal shall be used to calculate the retention score. The interim performance appraisal shall be considered final and not subject to appeal.

31.J. – Formation of Groups for Purposes of Layoff – The Administrative Authority for the district, shall create groups for the purpose of conducting layoffs. The Administrative Authority may choose to use more than one or all of the following criteria for establishing groups:

- District
- Location – defined as the physical address in the district
- Affected class – defined by job description
- Supervisor – defined by the person appraisal performance for a group of employees
- Business Operation – defined as a specific area of work

31.J.1. – The Administrative Authority, or designee, shall confirm employee retention scores calculated by the Human Resources Division, assign employees with retention scores to groups, and determine to what extent each group shall be affected by layoff based on retention score.

31.J.2. – Employees shall be laid off in reverse order of retention score by group. Should a tie exist between the retention score of a veteran and non-veteran employee in the same group, the non-veteran employee shall be laid off first. Should a tie exist between two non-veteran employees, an interim appraisal shall be completed. The employee scoring lowest on the interim appraisal shall be laid off first. The Administrative Authority, or designee, shall consider all options regarding layoffs and shall finalize district layoff plan for submittal to the State Court Administrator, or designee, for final approval.

31.K. - Notification to Employee – The State Court Administrator, or designee, shall notify any employee scheduled for layoff at least 30 calendar days in advance of the effective date of the layoffs. All employees affected by layoff shall be notified by hand delivery. If it is infeasible to meet with the affected employee in person, they may be notified electronically in addition to sending notification via email followed by certified mail.

31.L – Summary of Plan – The Administrative Authority, or designee, shall submit a final staff reduction plan that identifies the actual actions taken as part of staff reduction to the State Court Administrator.

Rule 32 - Accommodation for Mental or Physical Impairments

32.A. – Any employee requesting an accommodation under the Americans with Disabilities Act ("ADA") for a physical or mental impairment shall provide the Administrative Authority with an ADA Medical Certification addressing the nature of any limitations the employee may have in performing his or her essential function(s) and the requested accommodation(s). The medical certification shall be provided on a form made available by the State Court Administrator or designee.

32.B. – If an employee requests an accommodation on the basis of a physical or mental impairment, the Administrative Authority shall engage in an interactive process with the employee to**:**

1) Analyze and define the essential function(s) of the position;
2) Obtain information from the employee's medical treatment provider or from an independent medical examiner in order to determine the extent of the impairment and how the impairment limits the employee's ability to perform the essential function(s) of the position;
3) Consider any reasonable accommodation(s) that would enable the employee to continue to perform the essential function(s) of the job without presenting any undue hardship to the Judicial Department;
4) Determine which accommodation(s) can and will be approved, if any. If no reasonable accommodation can be made in the employee's current position, the Administrative Authority shall consider reassignment to a vacant position for which the employee is qualified, with or without reasonable accommodation.
5) Within 30 calendar days after meeting with the employee, or at a later date with the agreement of the employee, the Administrative Authority shall notify the employee whether an approved reasonable accommodation can be made that will allow the employee to continue to work for the Judicial Department. If no reasonable accommodation is available or if an accommodation cannot be made without imposing undue hardship to the Judicial Department, the Administrative Authority may consider termination of the employee's employment in accordance with the procedures of this rule.

32.C. – Prior to rendering a decision regarding the employee's status, the Administrative Authority shall consult with the State Court Administrator, or designee, and review all medical considerations and any federal and state laws and Judicial Department rules that may affect the employee, including but not limited to worker's compensation, family and medical leave, and short/long-Term Disability. The Administrative Authority, in conjunction with the State Court Administrator, or designee, shall determine whether the employee is affected by any of these regulations.

32.D. – If the employee cannot return to work with or without reasonable accommodation and all protected leave has been exhausted, the Administrative Authority may terminate the employment after consultation with the State Court Administrator, or designee. The employee may appeal such decision pursuant to the review procedures set forth in Rule 35.

Rule 33 – Post-employment Compensation

33.A. Post-employment Compensation - any compensation that may be given to an employee, including salary, benefits, and leave, after termination of the employee's employment or after termination of the performance of actual services in a classified position if such compensation was not earned prior to termination of the employment, or performance of actual services. Regardless of the reason for separation, the amount of total post-employment compensation authorized by a District shall not exceed the limits of this rule.

33.A.1. - **Post-employment Compensation Limits** - Any post-employment compensation payment and other benefits shall not exceed an amount equal to 1 week of an employee's salary for every year of his or her service, up to eighteen 18 weeks. Post-employment compensation cannot occur prior to employee separation date.

33.B. - Voluntary Separation Incentive (VSI) – A Voluntary Separation Incentive is an agreement that may be offered to certified and at will (non-probationary) employees in good standing as defined by Rule 36, as a result of layoff pursuant to Rule 31. Any compensation under a VSI is considered post-employment compensation. The State Court Administrator, or designee, shall establish a VSI plan before a district begins any post-employment compensation discussions or make any offers to employees.

33.B.1. - Requirements for Voluntary Separation Incentive (VSI)

33.B.1.a. - Once a VSI plan has been established pursuant to Rule 31, the Administrative Authority shall submit in writing any VSI requests for their district to the State Court Administrator for review and approval. VSI's submitted for employees of the Office of the State Court Administrator shall be submitted to the Chief Justice and Justices of the Supreme Court for review and approval. All VSI plans submitted are subject to review and approval by Director of Financial Services and Legal Counsel.

33.B.1.b. - VSI plans submitted for approval shall include a cost analysis of savings to the Judicial Department that must be completed and submitted in writing to the State Court Administrator prior to final authorization of VSI.

33.B.2.c. – All VSI contract language must be approved by the State Court Administrator, or designee, prior to the contract being executed between the employee and the district and before payment of any post-employment compensation. Contract language and other requirements will be outlined in the "VSI Plan" document that will be provided by the State Court Administrator, or designee, at the time VSI's are deemed appropriate. A district must use the same contract terms for all eligible employees in their district during the same layoff period.

33.B.2. - **Types of Incentives** - A VSI may include but is not limited to payment towards the continuation of health benefits, and/or postemployment compensation.

Postemployment compensation shall be contingent upon an employee's waiver of retention and reinstatement rights but waiving those rights does not affect the employee's eligibility for rehire.

33.B.2.a. - Any postemployment compensation payment and other incentives as part of a VSI shall not exceed an amount equal to 1 week of an employee's salary for every year of his or her service, up to 18 weeks per Rule 33.A.1. Any additional limitations shall be established and published by the State Court Administrator, taking into consideration prevailing market practice and other budget factors at the time of determination that VSI are deemed appropriate.

33.C. - Severance Pay – Employees who receive notification of layoff pursuant to Rule 31.K. shall be separated from employment as of the day of notification but shall be paid their regular rate of pay at the time of notification and the value of any benefits they would have received for the time period listed in Rule 31.K. Any Severance Pay is considered as part of total post-employment pay an employee is eligible to receive for pursuant to Rule 33.A.1.

PART 9

ALTERNATIVE DISPUTE RESOLUTION

Rule 34 – Alternative Dispute Resolution

34.A. – General Provisions - Disputes should be resolved at the lowest level and as informally as possible. Parties are encouraged to use alternative dispute resolution methods described in section B of this rule in an attempt to reach early resolution.

34.B. – Alternative Dispute Resolution

34.B.1. – All employees are encouraged to address conflicts directly and as informally as possible. This can include the following:

a) Meet one-on-one to discuss the conflict;
b) Meet with the other party and supervisor(s)/manager(s) to discuss the conflict; or
c) Meet with the other party and a third neutral party to discuss the conflict.

34.B.2. – If attempts to resolve the conflict in section B.1. of this rule are unsuccessful, either party may request mediation through their Administrative Authority, Human Resources or the Colorado Judicial Department Mediation Program. The parties may choose not to participate in the mediation if the dispute involves allegations of a violation of the Judicial Department's Anti-Harassment and Anti-Discrimination or Non-Violent Workplace Policy.

34.B.3. – The State Court Administrator, or designee, shall establish a Judicial Department Mediation Program with standards and procedures that describe the program.

Rule 35 - Review of Disciplinary Action or Involuntary Termination Due to Mental or Physical Disability

35.A. – Board of Review

35.A.1. – **Composition** – The Judicial Department Personnel Board of Review shall be composed of 8 members appointed by the Chief Justice: an Appellate Court Justice or Judge; a District Judge other than a Chief Judge; a County Judge other than a Presiding Judge in a Multi-Judge County Court; a Court Executive; a Chief Probation Officer; a non-management administrative employee; a probation employee and a court employee not within the management occupational group. The Chief Justice shall designate a Board Chairperson. The term of each Board Member shall be 3 years.

35.A.2. – **Quorum** – At least 5 of the 8 Board Members shall be present or actively participate in any decision of the Board.

35.A.2.a. – **Vacancies** – Vacancies on the Board of Review shall be filled by the Chief Justice for any unexpired term.

35.A.3. – **Disqualification** – When a matter comes before the Board involving an employee from the court or office of one of the Board Members, the Board Member shall not participate in the appeal. The remaining Board Members shall conduct the appeal provided they constitute a quorum. When the Chairperson deems it necessary, he/she may request that the Chief Justice appoint temporary Board Members to replace disqualified Members.

35.A.4. – **Jurisdiction and Subpoena Power** – Except as provided in section B.2. of this rule, the Board shall have jurisdiction over appeals of disciplinary actions pursuant to Rule 29, and involuntary terminations pursuant to Rule 32. The Board shall have no authority to review other actions affecting employees. Any Board Member shall have the power to administer oaths and to issue subpoenas duces tecum as may be needed for carrying out the duties and responsibilities required by this rule.

35.A.5. – **Standard of Review** – An action of an Administrative Authority which is appealable to the Board pursuant to this rule may be reversed or modified on appeal by the Board only if there is a finding that the action was arbitrary, capricious, or contrary to rule or law.

35.A.6. – **Decisions** – All decisions of the Board shall be final and binding on all parties and are not subject to appeal or review procedures set forth in these rules.

35.A.7. – **Hearing Officer** – The Board may appoint one or more hearing officers, who shall be attorneys who have practiced law in Colorado for at least 5 years, or a senior judge, to conduct hearings in appealed cases. A hearing officer may be appointed for a 2-year term to handle such cases as the Board may refer to such officer during the term. The hearing officer shall be compensated on the basis of actual time spent on Board matters at a rate to be established by the Board, in addition to reimbursement for actual expenses incurred.

35.A.8. – When a complaint of discrimination or harassment has been filed with the Equal Employment Opportunity Commission or the Colorado Civil Rights Division concurrent with an appeal, the Board or hearing officer shall defer action on the appeal to allow the parties a chance to resolve the issue in one of the above alternate forums. If not resolved, the employee may request to reinstate the appeal process within 10-calendar days of any final resolution by the alternative forum.

35.B. – Limitation on Review

35.B.1. – Appeals shall be limited specifically to the circumstances described in section A.5. of this rule.

35.B.2. – The following employees, being at-will do not have appeal rights, except for those appeals involving allegations of harassment, discrimination or retaliation in violation of the Colorado Judicial Department's Anti-Harassment and Anti-Discrimination Policy, federal or state law. If such allegations exist, the employee may petition the Board of Review for a discretionary hearing at the time of the filing of the appeal.

a) Employees serving a probationary period;
b) Court Executives;
c) Chief Probation Officers;
d) Division Directors of the State Court Administrator's Office;
e) Clerk of the Court of Appeals;
f) Clerk of the Probate Court;
g) Clerks of District, County or Combined Courts;
h) Clerk of the Supreme Court;
i) Counsel to the Chief Justice;
j) Court of Appeals Reporter of Decisions;
k) Supreme Court Librarian;
l) Appellate Law Clerks;
m) Appellate Court Assistants I, II and III;
n) Supervising Appellate Court Assistants;
o) Legal Research Attorneys;
p) Magistrates;
q) Law Clerks;
r) Chief Staff Attorneys;
s) Water referees;
t) Employees suspended pursuant to Rule 29.E;
u) Employees who resign pursuant to Rule 30.C;
v) Legislative Liaison;
w) Staff Attorney to the Chief Justice;
x) Assistant Reporter of Decisions; and
y) Judicial Legal Counsel
z) State Court Administrator

35.C. – Appeal Procedures

35.C.1. – Timely Filing

35.C.1.a. – An employee seeking an appeal of the Administrative Authority's decision, which is within the jurisdiction of the Board shall file a written notice of appeal with the Board Chairperson. Use of the Judicial Department's standard appeal form is required. The employee shall transmit copies of the appeal to the Administrative Authority whose action is the subject of the appeal and to the State Court Administrator. An appeal is timely filed with the Board if it is received in the office of the Board Chairperson within 15 calendar days from the date of the written decision of disciplinary action which is the subject of the appeal. If the 15th calendar day falls on a weekend or legal state holiday, the time period will be extended to the next regular business day.

35.C.1.b. – Any appeal not received within the time limits shall be denied, except that the Board Chairperson may extend the time for filing an appeal upon a finding of good cause. "Good cause" for the purpose of this rule, is defined as any cause, not attributable to the appealing employee's act or omission, which in the judgment of the Board Chairperson requires that the time for filing an appeal be extended. The decision of the Board Chairperson whether to accept such an appeal shall be final.

35.C.1.c. – **Right to Representation** – The employee shall be entitled to legal counsel at the employee's own expense. The Administrative Authority whose action is complained of may be represented by the legal counsel of the Judicial Department or other counsel.

35.C.1.d. – **Content of Appeal** – The appeal shall state in clear language and in sufficient detail:

i. The employee's name, address and telephone number, the name, address, and telephone number of the employee's representative, if any;
ii. The specific action being appealed, attaching a copy of the written notice of action;
iii. The effective date of the action being appealed;
iv. The name, title and business address of the Administrative Authority whose action is being appealed;
v. A specific and concise statement giving the reason for the appeal, including a statement identifying the reasons the employee believes the action taken was arbitrary, capricious or contrary to rule or law, and the relief requested.

35.D. – Prehearing Procedures

35.D.1. – **Setting** – The Board shall assign the matter to a hearing officer who shall set the hearing to be commenced within 90 calendar days after the date of the filing of the appeal, with notice of the hearing being provided to the parties. The hearing officer may grant a continuance of the hearing but only for good cause shown. The hearing must be rescheduled to commence no later than 120 calendar days after the date of the filing of the appeal.

35.D.2. – **Setting of Discretionary Hearings** – Upon receipt of an appeal requesting a discretionary hearing pursuant to Rule 35.B.2, the respondent shall have 10 calendar days to file a response to the request for hearing. The Board Chairperson, or designee, shall review the issues and proposed evidence presented to determine whether a hearing is warranted and render a decision within 10 calendar days of receiving the response. If a hearing is granted, the matter shall be set with a hearing officer to be commenced within 45 calendar days after the Board's decision.

35.D.3. – **Motions** – The moving party shall file each original motion and one copy with the hearing officer and provide a copy to the other party. The responding party shall have 10 calendar days from the date of the filing to file a response to any substantive motion. If there is less than 10 calendar days before a scheduled hearing, the hearing officer may require a lesser amount of time for a response or the responding party may provide a written or oral response at the hearing. If no response is filed, the motion may be accepted and deemed confessed.

35.D.4. – **Discovery** – Discovery through informal information requests is encouraged. Motions before the hearing officer with respect to discovery matters are discouraged. Requests for information, either informal or formal, must be submitted to the other party no later than 15 calendar days from the date of the issuance of the notice of hearing. Responses to all requests for information must be provided to the other party in writing within 15 calendar days of the request. All exchanges of information, including depositions, must be completed at least 10 calendar days prior to the scheduled hearing. Formal discovery is limited. Each party is limited to two depositions, 30 interrogatory questions, 10 requests for production of documents and 10 requests for admission. Either party may request additional formal discovery, but the hearing officer may grant such request only upon a showing that it is essential for the party's hearing preparation.

35.D.5. – **Informal Early Resolution** – Both parties are encouraged to make efforts to resolve an appeal before hearing. However, such effort to resolve the appeal does not constitute a waiver or modification of the time limits in this rule.

35.E. – Hearing Procedures – The hearing shall be conducted in accordance with the provisions and procedures prescribed by section 24-4-105, 10A C.R.S.(1988), as amended, and the hearing officer shall have the power granted therein, except that where the statutory provisions are in conflict with the provisions of these rules, these rules shall control.

35.E.1. – **Public Hearing** – The hearing shall be open to the public, unless a closed hearing is requested by the employee or ordered by the hearing officer and shall be recorded verbatim either stenographically or electronically.

35.E.2. – **Prehearing Information Statement** – At least 20-calendar days before the scheduled hearing, both the employee and the Administrative Authority whose action is being appealed shall file with the hearing officer a Prehearing Information Statement. Any amendments shall be for good cause shown and must be filed at least ten calendar days before the scheduled hearing. A copy of the Prehearing Information Statement and any amendments shall be provided to the other party and the party's representative. Failure to identify a witness or exhibit in accordance

with this rule may preclude its use at the hearing. Good cause for amending a Pre-Hearing Information Statement shall be based on a showing that the information and/or its significance to the issues in the case reasonably had not previously been known. The Pre-Hearing Information Statement shall include:

a) A description of the circumstances resulting in the Administrative Authority taking the action being appealed;
b) A statement of the issues to be presented;
c) A statement of any admitted or undisputed facts;
d) A statement of the disputed facts;
e) A listing of relied upon legal authorities;
f) A list of exhibits intended to be offered at the hearing and a copy of each exhibit;
g) A list of witnesses who may be called to testify and a brief and general statement of the anticipated testimony of each witness; and
h) For the employee, the requested remedy.

35.E.3. – **Conduct of the Hearing** – The hearing officer shall conduct the hearing and afford the parties an opportunity to introduce evidence, including testimony and statements of the complaining employee, the employee's representative, the person whose action is complained of, the Administrative Authority, their representatives, and other witnesses, and to cross-examine witnesses. The testimony shall be under oath or affirmation.

35.E.4. – **Application of Rules of Evidence** – Rules of evidence shall not be applied strictly, but the hearing officer shall exclude irrelevant or unduly repetitious evidence.

35.E.5. – **Burden of Proof** – The burden of proof is on the Administrative Authority to show that the Authority's actions were not arbitrary, capricious or contrary to rule or law.

35.E.6. – **Failure to Appear** – Failure, without good cause, of the complaining employee or the party’s representative to appear at a scheduled hearing shall be deemed a withdrawal of the appeal, and the action of the Administrative Authority shall be final.

35.F. – Decision of the Hearing Officer

35.F.1. – **Standard of Review** – Upon hearing the evidence and statements of the parties, after such deliberation as necessary, the hearing officer shall make findings and a decision on the issue of whether the action of the Administrative Authority complained of was arbitrary, capricious or contrary to rule or law, and what, if any, remedial action should be ordered, or whether the appeal should be dismissed or denied. The decision of the hearing officer shall be based on the preponderance of the evidence.

35.F.2. – **Timing of Decision** – The decision of the hearing officer shall be issued within 30 calendar days of the conclusion of the hearing.

35.F.3. – **Contents of Hearing Officer's Decision** – The hearing officer shall issue a written decision and serve a copy thereof on the Board and on the parties and their representatives by

first class mail. The decision shall contain specific findings of fact and conclusions of law, recommendations for any remedial action required, and notification of the right of either party to appeal to the Board, including the time when an appeal must be filed and the name and address of the Board Chairperson. The written decision shall contain a certificate of mailing.

35.F.4. – **Finality of Hearing Officer's Decision** – Unless an appeal is filed within 15 calendar days after issuance of the decision by the hearing officer, the decision shall become the decision of the Board and shall be carried into effect. If an appeal is filed timely, the hearing officer's decision is not final and may not be given effect until the Board has decided the appeal.

35.G. – Board Review of Hearing Officer's Decision – Either party is entitled to appeal the decision of the appointed hearing officer to the Board. Such appeal shall be filed with the Appellate Court Judge or Justice serving as Board Chairperson. Such an appeal to the Board shall be in writing, setting forth in detail the reasons for the appeal, the specific findings of fact and/or conclusions of law of the hearing officer which are alleged to be improper, and the remedy being sought by the appealing party.

35.G.1. – **Time for Appeal** – A notice of appeal, and 8 copies thereof, shall be filed with the Board Chairperson within 15 calendar days after the date of mailing the decision by the hearing officer. A copy of the notice of appeal also shall be provided to the other party. The Board Chairperson may extend this time limit upon a finding of good cause as defined Rule 35.C.1.b. of this rule.

35.G.2. – **Contents of Notice of Appeal** – The notice of appeal shall contain in clear language and in sufficient detail:

a) The employee's name, address and telephone number and the name address and telephone number of the employee's representative if any;
b) The name, title, and business address of the Administrative Authority whose action is being appealed;
c) A concise and specific statement of the errors or mistakes of the hearing officer which the appealing party claims are grounds for reversal or modification of the hearing officer's decision;
d) A designation of those parts of the transcript of the hearing necessary to determine the appeal; and
e) A copy of the hearing officer's decision shall be attached.

35.G.3. – **Transcript of Hearing** – The party appealing is responsible for making arrangements with the court reporter for transcription of the parts of the record designated in the notice of appeal and for paying the court reporter for transcribing the record so designated. The other party may designate portions of the record. That party is responsible for making arrangements with the court reporter for transcription of that part of the record and for paying the court reporter for transcribing that part of the record. Failure to designate a transcript shall be deemed a waiver of a transcript. In the absence of a transcript, the Board is bound by and cannot alter the findings of fact of the appointed hearing officer. The transcript shall be filed with the Board within 30

calendar days of filing of the notice of appeal and notice of such filing of the transcript shall be sent to the other party.

35.G.4. – **Briefing Schedule** – The original and 8 copies of all briefs shall be filed with the Board Chairperson and a copy shall be mailed to the other party. The appellant shall file an opening brief not to exceed 20 pages with the Board Chairperson within 20-calendar days of the filing of the notice of appeal or the filing of the transcript, whichever date is later in time. The appellee shall file a response brief, not to exceed 20 pages within 10-calendar days of receipt of the appellant's opening brief. The appellant may file a reply brief not to exceed 10 pages, within 5 calendar days of receipt of the appellee's response brief. Parties are encouraged to submit their briefs in typewritten or computer-generated form, double spaced, and in type no smaller than a 12-point font size.

35.G.5. – **Board Decision**

35.G.5.a. – The Board shall review the record of the proceedings, including a transcript, if any, all relevant written representations, and the decision of the appointed hearing officer.

35.G.5.b. – The Board, in its discretion, may afford the parties the opportunity to appear and present oral arguments.

35.G.5.c. – The Board may affirm, modify or reverse the decision of the appointed hearing officer in conformity with the facts and the law or may remand the matter to the hearing officer for such further proceedings as it may direct. The findings of evidentiary fact, as distinguished from conclusions of law, made by the hearing officer shall not be set aside by the Board unless the evidentiary findings are contrary to the weight of the evidence. The Board's decision shall be based on majority vote of the Members present. In the event that a majority of the Board Members present do not agree to reverse or modify the decision of the appointed hearing officer, the decision of the appointed hearing officer shall be affirmed.

35.G.5.d. – The Board will issue a written decision within 90 calendar days of its receipt of the appeal and transcript, if any, and shall send copies thereof to the employee and Administrative Authority. The decision of the Board is final, and there is no further right to appeal. When remedial action is ordered, the Administrative Authority shall report promptly to the Board that the remedial action has been taken.

35.H. – Settlement – The employee and the Administrative Authority may attempt to resolve the appeal of the appointed hearing officer's decision prior to decision by the Board, employing any means deemed appropriate by the parties. However, such efforts to resolve the appeal do not constitute a waiver or modification of the time limits set forth in this rule.

35.I. – Retention and Disposition of Records – Within 15-calendar days of the final resolution of an appeal before the Board, the entire Board file, including all filings and briefs submitted with, and rulings and decisions by the Board and/or hearing officer, and any transcripts, if any, shall be forwarded

to the Human Resources Division for retention and disposition pursuant to the Judicial Department's records retention manual.

PART 10
DEFINITIONS

Rule 36 - Definitions

36.A. - As used in these rules, the following terms shall have the stated meanings.

(1) **Accrual Start Date**. The date used to calculate the hourly accrual rate of Paid Time Off (PTO). A year of service for purposes of determining this date shall be 12 months of continuous employment with the State of Colorado, which includes continuous employment in any State of Colorado position, as well as Colorado Judicial Department contract employment.

(2) **Administrative Authority**. The person vested by constitution, statute or Chief Justice Directive with authority over personnel matters for employees within the person's jurisdiction.

(3) **Appeal**. A complaint or petition filed by an employee with the State Court Administrator or with a review board as provided in these rules.

(4) **Appointment.** The act of filling a position.

(5) **At-will Employee**. A classified, non-certified employee as listed in Rule 35.B.2 who may be terminated at any time with or without cause.

(6) **Calendar Days**. All dates and deadlines listed as “calendar days” shall be calculated as consecutive calendar days, however if the date falls on a weekend or legal state holiday, the time period will be extended to the next regular business day.

(7) **Certification.** Designation of a classified non-at-will employee to the status of a certified employee.

(8) **Certified Employee**. A classified non-at-will employee who has successfully completed the probationary period.

(9) **Certified Status**. The employment status of a non-at-will employee who has successfully completed the probationary period; a status wherein an employee is entitled to full rights available to a non-at-will employee under these personnel rules.

(10) **Civil Union**. The legal relationship between two unmarried adults, regardless of gender, certified and licensed as a civil union by a county clerk and recorder.

(11) **Classified Employee**. A person who occupies a position within the personnel job classification plan established by these rules; not a contract employee.

(12) **Classified Position**. A position within the personnel job classification plan established by these rules.

(13) **Classified System**. All positions within the personnel job classification plan of the Judicial Department established under these rules.

(14) **Comparative Analysis Process**. A process required by the State Court Administrator, or designee, to establish eligibility for hiring appointment or promotion.

(15) **Compensation Plan**. A writing which assigns each job classification to a salary range.

(16) **Compensatory Time**. Work time credited to a non-exempt employee at a rate of time and one-half for work done in excess of 40-hours in a 7-day period.

(17) **Compensatory Time-off**. Time off work at a rate of time and one-half, in lieu of monetary overtime compensation otherwise required for non-exempt employees.

(18) **Continuous Employment**. Any period of consecutive employment by the Judicial Department, including periods of qualified leave but excluding periods of unpaid leave.

(19) **Contract Employee**. An employee whose relationship with the Judicial Department is governed by written contract of employment and contract guidelines. These employees are subject to C.J.S.P.R. unless expressly governed by the written contract of employment or contract guidelines.

(20) **Conviction**. Any plea or finding of guilt, including plea of nolo contendere or acceptance of a deferred sentence.

(21) **Corrective Action**. A written warning, reprimand or censure taken to correct and improve job performance, which does not affect current pay, status or tenure.

(22) **Deferred Sentence**. Postponement of judgment and sentence following plea of guilty as provided in state statutes.

(23) **Demotion**. Any change of an employee's position or class within the classified system where there is at least a 5% decrease from the midpoint of the current class as compared to the new class.

(24) **Disciplinary Action**. An action taken to penalize an employee for an offensive act or poor job performance, which adversely affects current pay, status or tenure.

(25) **Discretionary Testing**. Any testing used at the discretion of an Administrative Authority to establish eligibility for hiring appointment or promotion.

(26) **Dismissal**. Involuntary termination of an employee for disciplinary reasons; discharge.

(27) **District**. For the purposes of these rules district is defined as trial court by district, probation department by district, Court of Appeals, Supreme Court, Offices within SCAO. Denver Probate, Denver Adult Probation and Denver Juvenile Probation, Denver District Court and Denver Juvenile Court shall be deemed as separate offices.

(28) **Domestic partner**. An individual with whom the employee is in a domestic partnership registered with a city of domicile or the state.

(29) **Downgrade**. Reassignment of a position or class where there is at least a 5% decrease from the midpoint of the current class as compared to the new class.

(30) **Electronic Signature**. An electronic sound, symbol, or process attached to or logically associated with a record and executed or adapted by a person with the intent to sign the record.

(31) **Eligibility List**. A list of persons who have been found qualified for appointment to a position in the classified system.

(32) **Employee**. A classified employee.

(33) **Event Year**. As related to family and medical leave, the date the Administrative Authority notifies the employee of his/her right to family and medical leave.

(34) **Excellence Awards**. Annual program established to recognize outstanding employee service.

(35) **Exempt Employee**. An employee excluded from the overtime compensation provision of Rule 21.

(36) **Frozen Salary**. A salary that is held at a fixed level until it falls within the pay designated by the compensation plan for that position.

(37) **Full-time Employee**. An employee regularly scheduled to work 40 hours in a 7-day period.

(38) **Furlough**. A form of unpaid leave in which leave benefits and service credit are earned and accrued as though the employee were at work.

(39) **Good Standing**. The status of an employee who scored 3.0 or higher on the most recent performance appraisal and has not received a combination of two or more corrective or disciplinary actions in the previous 24 months.

(40) **Grant Funded Contract Employees**. Employees being paid from non-judicial state agency granted funds, federal grants or other non-judicial grantors.

(41) **Hearing Officer**. A person appointed by the Judicial Department Personnel Board of Review to conduct hearings in appeals under Rule 34.

(42) **Hire**. Appointment of a person to a position in the classified system.

(43) **Independent Contractor**. A worker who is an independent contractor pursuant to contract or who is an independent contractor as defined by IRS Revenue ruling 87-41.

(44) **Job Class**. A group of positions sufficiently similar in duties, authority, and responsibilities that they may use the same descriptive title, qualifications and salary range.

(45) **Job Class Description**. The official written description which defines the class, lists some of the more typical tasks of the class, and the training, education and experience standards required for the class.

(46) **Job Classification**. The assignment of a position to a job classification.

(47) **Job Classification Plan**. The aggregate of writings which establish the qualifications and duties for each position or job classification, and which allocate each position to a class.

(48) **Job Series**. Jobs which are related in the type of work and function being performed, progressing with greater levels of complexity and decision making. A job series may include any position from entry level positions to first-line supervisor position.

(49) **Judicial Department**. The branch of state government in which judicial power of the state is vested, not including the Office of Attorney Regulation Counsel; Office of the Presiding Disciplinary Judge; Office of Judicial Performance; Board of Continuing Legal and Judicial Education; Board of Law Examiners; Office of Attorney Registration; Judicial Discipline Commission; Office of Alternate Defense Counsel; Office of the Child's Representative; Office of the Public Defender; Independent Ethics Commission; Office of Respondent Parents' Counsel or any other office established under an authority other than that vested in the Supreme Court by Colo. Const. art. VI, sec. 5(3). These rules also shall not apply to employees of the Clerk of the Courts office for the merged courts of the City and County of Broomfield.

(50) **Judicial Department Personnel.** The aggregate of all classified employees of the Judicial Department.

(51) **Judicial System**. The classified system.

(52) **Layoff**. The involuntary separation of a certified or at-will employee due to abolition or vacation of the employee's position.

(53) **Length of Service**. Time counted for purposes of seniority, which includes continuous employment in any Judicial Department position, including contract positions, minus any periods of leave without pay not covered by FML, qualified military leave, workers' compensation leave, or furlough leave. Time between the date of separation and re-employment shall be counted as continuous employment. Time between the date of separation and reinstatement shall be counted as leave without pay. Upon an employee's return from any period of unpaid leave except those identified above, the length of service date shall be adjusted forward one month for every 173 hours of leave without pay accumulated in the calendar year.

(54) **Non-classified Job**. A job not within the classified system; not a classified position.

(55) **Non-at-will Employee**. Any classified employee other than an at-will employee.

(56) **Non-at-will Position**. Any classified position other than an at-will position.

(57) **Non-exempt employee**. An employee included in the overtime compensation provision of Rule 21.

(58) **Normal Workweek**. Forty hours of work in the established 7-day period for a full-time employee.

(59) **Overtime**. The time an employee is directed or permitted to work in excess of 40 hours in the employee's established 7-day work period.

(60) **Partisan Office**. An office held by a person affiliated with a specific political party.

(61) **Part-time Employee**. An employee regularly scheduled to work less than 40 hours in a 7-day period.

(62) **Performance Probation**. The probationary period following performance appraisal score of 2.75.

(63) **Personnel Job Classification Plan**. The classification and compensation plans established by these rules.

(64) **Position**. An individual job within the classified system.

(65) **Premium Pay**. Compensation at the rate of time-and-one-half for overtime work by a non-exempt employee.

(66) **Probationary Employee**. A newly hired non-at-will employee serving in a period of probationary status.

(67) **Probationary Period**. The period of time during which a newly appointed non at-will employee serves in probationary status.

(68) **Probationary Status**. The employment status of a non-at-will employee until they have successfully completed the probationary period in accordance with Rule 19; a status wherein an employee is entitled to less than the full rights available to a certified non-at-will employee under the personnel rules.

(69) **Promotion**. Any change of an employee’s position or class within the classified system where there is at least a 5% increase from the midpoint of the current class as compared to the new class.

(70) **Promotional Only**. Designation of a vacant position to be filled only by a current employee in the judicial personnel system.

(71) **Protected Group**. Any group of persons who are afforded special protection in hiring and employment practices under state or federal law.

(72) **Qualified leave**. periods of paid time off, extended sick leave, funeral leave, designated holiday leave, jury and witness leave, administrative leave, victim protection leave, furlough leave, military training leave, paid or unpaid family and medical leave (FML), or compensatory leave.

(73) **Range**. The span of salaries within a job classification as identified on the Compensation Plan.

(74) **Range Minimum**. The starting salary of a compensation range.

(75) **Range Maximum**. The highest-level salary of a compensation range.

(76) **Realignment**. The reassignment of a job class from one salary range to another salary range.

(77) **Reclassification**. The reassignment of a position from one class to another class.

(78) **Reemploy**. Rehire a former employee within two years after a voluntary layoff.

(79) **Reinstatement**. Rehire a former certified employee, an employee who is laid off pursuant to 31.H., or an at will employee. Upon reinstatement, the employee shall be restored to the same employment status, either at-will, probationary or certified, the employee shall have length of service and leave accrual rates restored. The compensation upon reinstatement must fall within the compensation range of the job classification to which the employee is returning and be at an equitable rate commensurate of the qualifications of the returning employee in comparison with district employee's qualifications in the same job classification. The former employee must be reinstated within 180 calendar days after separation and was in good standing.

(80) **Salary Survey**. See Wage Survey.

(81) **Separation**. A general term referring to any action ending the employee/employer relationship.

(82) **Shift**. A defined period of time that an employee is scheduled to work. This includes the set day(s) in a week an employee is expected to be at work and the number of hours within each scheduled day the employee is expected to report.

(83) **Special Courts**. Denver Juvenile Court and Denver Probate Court.

(84) **Spouse**. Husband or wife as defined or recognized under Colorado law for purposes of marriage, including common law marriage.

(85) **Staffing Pattern**. A document showing the number of classified positions authorized for each location, the salary and title of each position and other related information.

(86) **State Agency**. The legislative or executive department of state government, or any subdivision thereof.

(87) **Supervisor**. An employee to whom authority has been delegated to direct and control the work of one or more other employees.

(88) **Suspension**. Temporary separation from employment without change in employment status; may be with or without pay.

(89) **Termination**. The separation of an employee from Judicial Department employment by resignation, retirement, layoff, dismissal, or death.

(90) **Transfer**. Any change of position or job classification to another position or job classification with the same compensation mid-point or up to 4.99% below or above the employee's current compensation at the same salary range. A transfer may also refer to a change to another court, probation department, or division within the Judicial Department at the same salary range.

(91) **Unusual Conditions**. Where there is a documented shortage in the market and recruitment or retention difficulty.

(92) **Unusual Qualifications**. Substantial prior job experience at an equivalent or higher level of responsibility when compared to the responsibilities of the new position.

(93) **Vacant Position**. An unoccupied position designated by the staffing pattern.

(94) **Vacate**. To remove an incumbent employee from a classified position in the staffing pattern, leaving the position in existence but unfilled.

(95) **Wage Survey**. The annual survey conducted by the state personnel director to determine prevailing rates for salaries and fringe benefits for employees.

Index