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I. DUTIES

A. CHIEF JUDGE

1. The Chief Judge shall be chosen by the judges of the court for a term of two years; and thereafter, automatic rotation of the office of the Chief Judge among the members of the court shall be based on seniority of service on the Court of Appeals. If a vacancy occurs for any reason, a successor shall be chosen promptly and his/her term shall begin as of the date of such selection. In the event a judge leaves the court for any reason, his/her successor on the court shall not stand in his/her stead of priority in serving as Chief Judge, but the successor goes to the bottom of the list as junior judge. A judge on becoming eligible for selection as Chief Judge may waive all or any part of the term to which he/she is entitled.
2. If the Chief Judge is absent or otherwise unable to discharge his/her duties, the judge next in the line of succession for Chief Judge is authorized to perform any emergency or otherwise urgently required duty of the Chief Judge pending his/her return to duty.
3. The Chief Judge is responsible for the administration of the court and the dispatch of its business. The responsibilities include:
 - a. Insures that major policies and procedures for the operation of the court have been established by a majority vote of the judges thereof, and acts within the scope of such authority.
 - b. Presides at meetings of the Executive Council and when the court is en banc, and shall prepare and distribute a written agenda for the court the day prior to the meeting.
 - c. Supervises fiscal affairs, accounting, planning, preparation, and presentation of the budgets; and renders financial reports to the court and required agencies.

- d. Initiates policies concerning the court's internal operations and its position on external matters affecting the court.
- e. Appoints standing and special committees to aid in the administration of the court.
- f. Represents the court in its relations with the Supreme Court, other agencies of government, the bar, general public, news media, and ceremonial functions.
- g. Appoints Special Prosecutors in bar disciplinary matters.
- h. Supervises preparation of an annual statistical analysis report reflecting caseload of the court, and such other periodic reports deemed necessary by the court.
- i. Performs such other administrative duties as may be required and which are not otherwise provided for by law or rule.

B. EXECUTIVE COUNCIL

- 1. Shall be composed of the Chief Judge and the three Presiding Judges and shall act on all matters referred to the Chief Judge and Council as provided by committee assignments.
- 2. If not otherwise provided, shall determine which administrative matters should be presented to the full court.
- 3. Advise and counsel the Chief Judge on matters relating to the court.
- 4. If a tie vote occurs on a matter under consideration by the Chief Judge and Council, the matter shall be referred to the full court.
- 5. Purchases of \$500 or more shall be submitted to the Executive Council for consideration and approval.

C. BUDGET COMMITTEE

The Chief Judge in consultation with the Fiscal Officer:

1. Prepares response to audit, if necessary, for consideration of the court and signature of the Chief Judge.
2. Conducts such internal or external audits as deemed necessary.
3. Periodically examines fiscal officer's journal, ledger, or similar records to see that postings are current; examines expenditures for supporting documents, and checks any fiscal record deemed necessary.
4. Makes all reports and recommendations directly to the full court.
5. The clerk/court administrator shall be responsible for preparation of drafting amendments on sections pertaining to the Budget Committee of the Internal Operations Manual.

D. EN BANC SECRETARY

1. The clerk/court administrator of the Court of Appeals shall serve as en banc secretary and shall be responsible for the preparation of minutes and the submission of the minutes to the Chief Judge who will preliminarily check the minutes for correctness and return them to the clerk/court administrator. Copies of the proposed minutes will then be sent to each judge prior to the next scheduled meeting.
2. The minutes will be presented to the next en banc and after approval shall be placed in the En Banc Minute Book.
3. The clerk/court administrator shall keep the Official Minute book, which shall consist of all past minutes which are still available from any judge and minutes of all meetings after they are approved at the following meeting. Minutes shall be summaries of discussions. (Source: Minutes of 1/24/94).

E. HISTORICAL RECORDS

The clerk/court administrator:

1. Prepares and maintains records, pictures, news stories, and documents of a historical nature pertaining to the court.
2. Prepares and revises as necessary a brochure to include a narrative history, list of past judges, and pictures and biographies of judges presently on the court.
3. Searches for and obtains old group photographs of judges and places them in a room or area designated by the court en banc.
4. The clerk/court administrator shall be responsible for the preparation and drafting of amendments on sections pertaining to historical records in the Internal Operations Manual.

F. LEGISLATION

Judge in Charge: _____

1. Keeps current with and explains all bills in a timely fashion that should be brought to the attention of the full court.
2. Maintains a file on laws or code sections that are called to his/her attention as being in conflict by other members of the court, such as those which contain typographical errors, are incomprehensible, or otherwise in need of revision, as discovered in preparation of opinions, and prior to each session of the Legislature discusses with the full court those laws that should be brought to the attention of appropriate legislators.
3. The clerk/court administrator shall be responsible for drafting any amendments on this section pertaining to legislation for the Internal Operations Manual as well as being responsible for adopting a procedure to facilitate paragraph 2 above.

G. EMERGENCY MOTIONS JUDGE

Judge in Charge: _____

1. The judge designated as the Emergency Motions Judge is authorized to handle on an ex parte and immediate manner those matters of urgency in which there is no pending case. Included in such category are:
 - a. Applications for stay.
 - b. Motions for extension of time that have become an emergency through no fault or neglect of the petitioner.
 - c. Other motions of a similar nature.
2. If doubt exists as to whether a particular motion should be handled routinely or specially, the clerk's office shall immediately cause the material to be hand carried to the Emergency Motions Judge for decision.
3. In his/her absence, the most senior judge present is authorized to act.

H. OFFICE OF THE CLERK/COURT ADMINISTRATOR

Judge in Charge: _____

1. The clerk/court administrator of the Court of Appeals shall be responsible for the general oversight of operation of the clerk's office in consultation with the judge in charge to include:
 - a. Planning for layout, work flow, more efficient equipment, and future requirements projected for the court.
 - b. Determines appropriate number of persons needed for the most efficient and economical operation of the clerk's office.
 - c. Resolves matters of personnel discipline, termination of employment, and employment of replacement personnel. Proposed personnel actions pertaining to the clerk or deputy clerk shall be presented to the court en banc. No employee with 15 years' service, or more, shall be involuntarily separated without approval of the court.

- d. Recommends personnel salary changes to the Chief Judge and Executive Council. If considered favorably, the matter will be presented to the court en banc.
 - e. Determines that all personnel are sufficiently trained to perform their assigned duties and that the clerk and deputy clerk are sufficiently knowledgeable with every operation of the office to the extent that they could perform such functions in the absence of an employee or in an emergency.
2. Insures office personnel adhere to all written rules, procedures, policies and laws, particularly the office policies of the clerk's office, Court of Appeals of Georgia (a copy of which is in the clerk's office and the fiscal officer's office and incorporated herein by reference.)
 3. Receives and acts on all complaints from judges, attorneys, or other persons having contact with the clerk's office.
 4. Assigns Floating Administrative Assistants in accordance with the floater assignment policy.
 5. Receives and acts on all requests for reservations for the conference room, courtroom and the banc room. (Source: Minutes, June 1995 Banc meeting)

I. PLANNING AND FACILITIES MANAGEMENT

The clerk/court administrator:

1. Projects and prepares plans for:
 - a. Renovation of existing space when needed.
 - b. Work load in a 5-year increments.
 - c. Future space requirements.
 - d. Future judicial and support personnel.
 - e. Extensive renovation or replacement of furniture and equipment requiring special budgetary request.

2. Prepares cost estimate to effectuate plans the full court believes should be actively pursued.

J. RULES OF THE COURT

Judge in Charge: _____

1. Along with the clerk/court administrator, responsible for drafting new and revised rules of court.
 - a. The clerk/court administrator shall maintain a file of proposed rules to be considered at the next revision.
 - b. The clerk/court administrator shall review rules of other courts with view of improving our own.
2. Proposes any new or revised rule to Chief Judge and Executive Council that is of such urgent nature that cannot await next formal revision. If deemed meritorious, the Chief Judge will present it to the court en banc.

K. PURCHASING COMMITTEE

Judge in Charge: _____

1. Receives all purchase requests from the fiscal officer, to whom the requester shall submit them directly. All requests from a judge's office must be signed by the judge. The fiscal officer will check the request for completeness and otherwise.
2. Examines and determines need therefor and whether funds are budgeted or otherwise available.
3. On purchases up to \$500 approves or disapproves such request and returns to fiscal officer if approved and to requester if disapproved.
4. On purchases or any expenditure from court funds in excess of \$500, other than for travel and salaries, refers such request with recommendation to the Chief Judge for action by the Executive Council.
5. If disapproval is indicated by either the judge-in-charge or council, the requesting judge shall be given the opportunity to be heard before final action is taken.

6. Each purchase request shall be dated and shall contain the anticipated cost before submission to the fiscal officer and initialed by the fiscal officer as to availability of funds.
7. A sufficient quantity of items that are kept in stock such as yellow pads, pens, paper, etc., should be requisitioned by each judge on a monthly basis. All purchase orders or requisition forms for anything must be approved by the judge.
8. Responsible for preparation of draft and amendments on purchasing section in the Manual for Internal Operations.
9. In the event the judge-in-charge of the Purchasing Committee is absent, the purchase request shall be presented to the Chief Judge. If both are absent, the purchase request shall be presented to the judge next in line of succession for the Chief Judge.
10. The reporter will follow the court travel and purchase policies.

See also, XVI PURCHASING POLICY.

L. MANUAL FOR INTERNAL OPERATIONS

The clerk/court administrator shall be responsible for drafting and keeping current a loose leaf manual for internal operations, Court of Appeals of Georgia, by:

1. Reviewing all previous minutes of the court.
2. Reviewing any constitutional or statutory enactment that could be construed to pertain to the internal operation of the court.
3. Conferring with each judge on the court to ascertain and reduce to writing the oral policies and procedures now in existence.
4. Conferring with each presiding judge for policies peculiar to each panel with view of striving for uniformity.
5. Review similar rules and manuals of other courts, ABA, and other organizations for new ideas to improve the operation of this court.

6. The table of contents and each section or part prepared for inclusion in the Manual shall be circulated to the court and receive a majority vote before being placed in the Manual for observance by the court.

M. COURT PERSONNEL COMMITTEE

The Court Personnel Committee shall be responsible for hearing appeals from Clerk's Office personnel pursuant to disciplinary action taken against such personnel by the clerk/court administrator under the Clerk's Office Policies and Procedures Manual. (Source: Minutes, June 1995 Banc Meeting)

II. ADMINISTRATIVE ASSIGNMENTS

- A. All administrative duties of any judge in charge may be designated in whole or part to the clerk/court administrator, upon approval of the Chief Judge.
- B. All ad hoc assignments for the clerk/court administrator shall first be cleared through the Chief Judge.

III. JUDGES' RETIREMENT PRESENTATIONS

A. PRESENTATION

A plaque with the judge's name and appropriate inscription shall be presented by the Court.

B. COURT TRIBUTE

Court Tribute on the day of retirement.

C. PORTRAITS

1. Upon retirement from this Court, any judge who has served as Chief Judge of this Court shall have his/her portrait hung in the courtroom. The cost of the portrait shall be borne by the Court, but the judges are encouraged to seek private funding for the portrait.
2. The portrait shall remain in the courtroom until it is retired to the hall or appropriate State institution. At the time of the retirement of the portrait, if it has been purchased with private funds, it will be offered to the family. If the portrait has been purchased with State funds, it will be offered for purchase to the family at the cost of the portrait to the State. The Executive Council will determine the appropriate number of portraits for the courtroom, the byway and the hall way.
3. The portraits will be rotated around the courtroom in seniority from the left corner using only the side walls.

**IV. PROCEDURE FOR HANDLING APPLICATIONS
FOR DISCRETIONARY APPEAL**

- A. Discretionary applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the discretionary application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the discretionary application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may consider motions for reconsideration of applications for discretionary appeals that are filed within ten days from the entry of the court's order denying or granting the application for discretionary appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, such as when an application is made and direct appeal is the proper procedure.
- E. Appeals from cases involving petitions for adoption shall be in the direct appeal category, whether the adoption was granted or denied, and whether a termination of parental rights was involved or not.

**V. PROCEDURE FOR HANDLING APPLICATION
FOR INTERLOCUTORY APPEALS**

- A. Interlocutory applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the interlocutory application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the interlocutory application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may review a motion for reconsideration which is filed within ten days from the entry of the court order granting or denying the application for interlocutory appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, such as when an application is made and direct appeal is the proper procedure.
- E. Regarding the timeliness of the filing of an interlocutory appeal application, the filing date of the certificate controls.

**VI. PROCEDURE FOR HANDLING SUPERSEDEAS
BOND IN CRIMINAL CASES**

- A. Where the defendant is in prison during appeal, that appeal should be expedited according to OCGA § 5-6-43 (c). It shall be the duty of the trial clerk and/or appellant to notify the court of incarceration of the appellant.

- B. Where the defendant files a notice of appeal on the issue of the denial of a supersedeas bond, the judge to whom the case is assigned has the option to require shorter time for briefing, expediting the transmission of the transcript or ruling instantane.

- C. There is no right to bail after conviction. OCGA § 5-6-45. However, the judge to whom the case is assigned may apply the standards in Birge v. State, 238 Ga. 88 and, if appropriate, remand the case to the trial court for the setting of an appropriate and reasonable bond. (Source: Beasley, Appellate Practice Lecture, April 1994).

VII. LIABILITY COVERAGE

A. BONDING OF COURT EMPLOYEES

All employees of the Court of Appeals are covered by a blanket faithful performance bond in the amount of \$100,000 and a blanket honesty bond in the amount of \$5,000,000 under Policy No. 1450 00 110723 Wausau Insurance Company and Westchester No. 626 011675 2, dated October 1, 1989 and in effect until 9/30/96.

The fiscal officer shall be bonded in the amount of \$100,000.

B. COMPREHENSIVE GENERAL LIABILITY COVERAGE

A single liability insurance policy shall provide coverage for each employee and each judge on the court. Certification of coverage shall be supplied to each judge annually, Policy No. CGL-401-14-96 providing \$1,000,000 per person and \$3,000,000 per occurrence coverage, policy dates July 1, 1995 through June 30, 1996.

C. STATE TORT CLAIMS POLICY

There is a single liability insurance policy providing coverage under the State Tort Claims Policy No. TCP-401-14-96 providing \$1,000,000 per person coverage or \$3,000,000 aggregate per occurrence coverage policy dates July 1, 1995 through June 30, 1996.

D. COPIES OF THE ABOVE POLICIES ARE AVAILABLE FOR INSPECTION IN THE FISCAL OFFICE.

In addition, the Department of Administrative Services has purchased a \$25,000,000 excess policy with Lexington Insurance Co., which provides liability coverage to State employees in conjunction with the State Employees Self-Insurance Liability Trust Fund. These employee coverages are designed to protect individual employees from suits brought against them in their individual capacities in actions brought pursuant to 42 U.S.C. § 1983, primarily in federal court.

VIII. EQUIPMENT INVENTORY.

- A. An inventory of the state-owned equipment and furnishings of each judge's office, which shall include the equipment and furnishings of the administrative assistant and the staff attorneys, wherever their offices are located, shall be kept by the fiscal officer, with a copy available to each judge upon request. The inventory shall be updated periodically, but at least annually as of June 30 of each year, and when the judge leaves office. The inventory shall contain state property inventory numbers which shall be cross-referenced to the judge's office.
- B. It is the general policy of this court that no inventory will be transferred between any offices in this court.
- C. Whenever any equipment inventory is transferred to a judge's office from any other office in this court, that transfer will be affected only upon approval of the court en banc, and upon the execution of the appropriate inventory transfer forms, and upon the delivery of such forms to the fiscal officer.
- D. This shall not apply to computers and other technical hardware which may, from time to time, be replaced or transferred by the court technical support services.

(See Appendix 1.)

IX. PERSONNEL

A. EQUAL OPPORTUNITY

It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment to all employees and applicants for employment on a non-discriminatory basis. No person shall, on the basis of race, color, religion, national origin, age, sex, or mental or physical handicap be excluded from employment by, participation in, be deprived of, or be subject to discrimination. It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment, compensation, promotion, training, and other conditions of employment, on the basis of assessed qualifications, responsibility level and demonstrated performance.

B. ANNUAL AND SICK LEAVE POLICY AND RECORDS.

1. All staff will keep a record of the exact dates of any leave taken, on a form provided by the fiscal officer and approved by the Chief Judge. The form shall include the type of leave, and shall be submitted to the fiscal officer at the end of each month, signed by the employee and the judge. The form shall constitute the official public records for retirement and other official purposes. Accrued annual leave is the difference between how much annual leave a person was entitled to earn (Reg. B. Par. B201 governs, based on years of service) and the amount of time actually taken (depending on the Judge's policy) since the date of employment. (See Appendix 2.)
2. Allowing compensatory time to staff attorneys shall be up to the discretion of each judge, but it shall add no monetary cost to the court.
3. Vacation time of employees is not to be used in excess of that earned during the current year (maximum of 21 working days, excluding weekends and holidays.) The period for computing vacation time runs from July 1 to June 30, beginning in 1986. Leave earned which is in excess of that allowed for actual vacation leave will carry over and accumulate up to a maximum of 45 days and be paid for when the employee leaves the court.

If an employee suffers a lengthy sickness and uses all accumulated sick leave, it is up to the discretion of the judge whether additional days be charged against excess annual leave or the 21-day actual yearly vacation leave. Also in the judge's discretion is when the employee takes the 21 days. (See Appendix 2.)

4. All employees of the Court of Appeals of Georgia will be subject to the Family Medical Leave Act and shall have the benefits thereof.

C. SALARIES

1. As determined by the court and legislature. Categories by experience are generally in line with the State Merit System. "Experience" means years since admission to any Bar together with active practice of law and service as staff attorneys of this Court or the Supreme Court. (Source of this sentence: Order of 9/30/64, as stated in Minute Book 15, p. 294) One-half of the salaries of the Reporter, Assistant Reporter, Assistant to the Reporter, and Reporter's Clerk, all as set by the Supreme Court, shall be paid by the Court of Appeals.

The salaries of the staff attorneys and of the Deputy Clerk shall be the same as those respective positions in the Supreme Court insofar as possible. The salaries of Research Associates (summer interns) shall be set by the Court.

2. Employees are entitled to retain juror and witness fees earned by them and to take court leave for such service.

D. PRACTICE OF LAW

1. Staff attorneys and other personnel shall not engage in the practice of law as defined in OCGA § 15-19-50, whether for remuneration or not, except in the furtherance of the business of the court.
2. Staff attorneys and other personnel should regulate their extra judicial activities to minimize the risk of conflict with their judicial duties and they should not engage in any activities that would detract from the dignity of their office or the court.
3. Staff attorneys and other personnel should refrain from inappropriate political activity.

E. EMPLOYMENT APPROVAL

1. The employment of the clerk/court administrator, deputy administrator, deputy clerk, fiscal officer, floating staff attorneys, computer specialists, central staff attorneys, and floating administrative assistants shall be by the Court sitting en banc. A written application shall be made on a "personnel history form." Each judge is free to hire and fire his/her staff.
2. No person who is related by blood or marriage to a sitting judge on the Court of Appeals is eligible for employment or to continue in employment by the court or any of its offices. In the event an employee of the court or any of its offices marries a sitting judge, that employee shall, at the instance of marriage, be terminated as an employee of the Court of Appeals of Georgia.

F. FRINGE BENEFITS

1. Every employee and every judge is subject to the mandatory retirement and life insurance coverage offered by the Employees' Retirement System.
2. Health insurance is optional for each judge and employee.
3. Other benefits that are available to employees of the Court of Appeals include, but are not limited to:
 - a. Life insurance
 - b. Employee dependent life insurance
 - c. Accidental death and dismemberment insurance
 - d. Short term/long term disability insurance
 - e. Legal insurance
 - f. Dental insurance
 - g. Medical and child care spending accounts
 - h. Long term care
 - i. Deferred compensation
 - j. Credit union membership
 - k. Direct deposit

G. FORFEITED LEAVE POLICY

Annual and sick leave accumulations shall be determined in accordance with the rates of accumulation of leave specified by the Rules and Regulations of the State Personnel Board governing classified employees. (See Appendix 2.)

Terminated employees will be paid for up to a maximum of 45 days of unused annual leave.

Employees who are members of the Employees' Retirement System "Old Plan" may receive service credit for unused annual and sick leave to be used toward any available retirement benefits.

The period of time for which there are departmental records on the accumulation and use of annual and sick leave shall be known as the documented period, and the period of time for which there are no departmental records shall be known as the undocumented period.

1. Documented Period:

Officially certified records kept on each individual employee reflecting the amounts of sick and annual leave accumulated and used.

2. Undocumented Period:

For periods of time where no officially certified leave records were kept on employees, the forfeited leave computation of 12.5 days/year is to be used when certifying to the Employees' Retirement System in accordance with Act 761 of the 1985 General Session of General Assembly. (See Appendix 3.)

Effective July 1, 1994, employees who are members of the Employees' Retirement System "New Plan" can also receive service credit for unused annual and sick leave. However, such benefits shall be subject to reduction or repeal by subsequent legislation and shall not be considered an element of any contract of employment.

H. NAME ON DOOR

Staff attorneys shall not have their names on the office doors.

I. OFFICE HOURS

1. Office hours for each judge's office shall be left to the discretion of each judge.
2. The clerk/court administrator's office will be open to the public from 8:30 a.m. to 4:30 p.m.

J. CLE AND COURT LEAVE

1. The court will pay tuition for CLE seminars approved prior to attendance on approval request form (Appendix 4). Court leave will be granted for CLE. This shall be limited to the minimum CLE hours required and shall be subject to the approval of the judge with respect to time required as per the approval request form. Reimbursement for parking will be approved but there shall be no reimbursement for travel or subsistence. Any amount of continuing legal education over 12 hours must be approved in advance by the Executive Council.
2. The court will no longer reimburse for transportation, travel, and/or subsistence for staff attorneys to attend the annual State Bar Convention, other than to pay for the cost of actual CLE attended. The court will allow court leave for ~~attendance at~~ CLE attended at the State Bar.
3. These rules do not apply to judges.

K. MAIL CLERK/FILE CLERK

The mail clerk/file clerk will perform those duties assigned to the him/her by the clerk/court administrator of the Court of Appeals. The mail clerk/file clerk is not available to perform personal errands, and/or banking for any court personnel, including judges. Any court personnel desiring to use the mail clerk/file clerk for any duties or tasks not assigned to the mail clerk/file clerk shall clear such requests through the clerk/court administrator of the Court.

L. FLOATING STAFF ATTORNEYS/CENTRAL STAFF ATTORNEYS

1. Requests for leave shall be made in writing to the Judge in charge of the Floating Staff Attorneys/Central Staff Attorneys, which Judge shall keep the leave record and send it to the fiscal officer. The judge to whom the floating staff attorney is assigned shall determine the time of the daily arrival and departure.
2. The judge in charge of the Floating Staff Attorneys/Central Staff Attorneys shall schedule the assignments of the Floating Staff Attorneys to the judges' offices on this court.

M. NEW EMPLOYEE ORIENTATION GUIDELINE

The judge hiring the employee, the fiscal officer and/or the clerk/court administrator where appropriate, should direct new employees to the Internal Operations Manual and the Rules of the Court of Appeals for specifics about the court and the court's fiscal policies. Also, new employees should be oriented on the role of the judiciary; the important part each employee plays in fulfilling the court's public service role; the court's chain of command; each person's area of responsibility; and the following:

1. Confidentiality.
2. Office hours.
3. Outside employment and activities, including political involvement.
4. Role of summer research associates.
5. Use of Lexis, Westlaw, Georgia Law on Disc, Shepard's, Shepard's on CD Rom, telephone, copy machine, postage machine, and court stationery.
6. Method for ordering supplies.
7. Handling of transcripts and briefs, e.g., no writing on briefs or transcripts.
8. Judge's preferences as to opinion drafting.
9. No smoking policy.
10. Health, Life Insurance and Retirement benefits.
11. Punctuality, sick leave, vacation, holidays, lunch breaks, absenteeism.
12. Parking arrangements.
13. Space allocation for staff attorneys.
14. Staff attorneys.
15. Continuing legal education.
16. Travel reimbursement.
17. Opinion drafting.
18. Proper attire.

N. COURT PARKING POLICY

Effective November 1, 1993, and henceforth, the parking spaces allocated to the Court of Appeals will be assigned in seniority order as they become available. If the most senior employee on the list already has a parking space in his/her own name, the Court of Appeals' space will go to the next person on the list. The list will be maintained in the Fiscal Office.

The above does not apply to spaces allocated for use by the judges. ~~Nine~~ spaces are set aside for the judges and will be assigned on a seniority basis.

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O. FLOATING ADMINISTRATIVE ASSISTANTS.

1. A Floating Administrative Assistant shall be assigned to the Office of the Chief Judge on the following basis:
 - a. The Chief Judge shall have a Floating Administrative Assistant assigned to his/her office on a permanent basis during the term of said judge's service as Chief Judge of this Court.
 - b. On days when the Chief Judge does not utilize the services of the Floating Administrative Assistant assigned to his/her office, said Floating Administrative Assistant shall report to the Clerk for assignment in the floater pool or as otherwise directed by the Clerk.
 - c. Should the Floating Administrative Assistant assigned to the Chief Judge complete all tasks and duties assigned by the Chief Judge to the Floating Administrative Assistant before the end of the day, then the Floating Administrative Assistant assigned to the Chief Judge shall report to the Clerk's Office for assignment by the Clerk.

(Source: September 1996 Banc meeting).

2. Floating Administrative Assistants shall be assigned to the individual offices on the following priority basis:
 - a. A judge's office that will be without an administrative assistant takes precedent over a judge's office who wants a floater to assist an administrative assistant.
 - b. If two or more judges' offices seek the assistance of a floater and each judge's office will be without that office's administrative assistant, then the office which requests first will have priority over those offices requesting later. Requests received concurrently will be assigned based on seniority.
 - c. If two or more judges' offices seek the assistance of a floater to assist the administrative assistant, then the office which requests first will have priority over those offices requesting later.

- d. If a judge's office has an emergency situation which will require the use of the judge's administrative assistant as well as a floater, that judge may request of the judge who has requested a floater and who is without an administrative assistant that the judge release the floater to the judge whose administrative assistant is present but has a dire emergency. (Source: Minutes, March 1994 Banc meeting).
- e. If any floating administrative assistant is not assigned to a particular judge's office on any day, or finishes an assignment prior to the end of the day, the clerk/court administrator shall assign the floater in accordance with written requests received in the Clerk's office on that day. If any floating administrative assistant remains unassigned after all written requests have been filled, said administrative assistant shall be assigned by the clerk/court administrator to a task in the clerk's office. (Source: Minutes, May 1996 Banc meeting).

P. COURT FLOWER FUND.

The court shall create a flower fund to provide funds for an appropriate expression of sympathy, joy, congratulations or recognition of achievement on certain occasions involving court personnel. The fund shall be administered through the flower fund guidelines. These guidelines are set out in Appendix 10. (Source: June 1995 Banc minutes). (Guidelines amended Source: May 1996, Banc minutes).

X. POLICY MATTERS AFFECTING BOTH APPELLATE COURTS

A. COURT OF APPEALS

1. Prior to the introduction thereof, the Court of Appeals will notify the Supreme Court and discuss any legislation which the Court is considering introducing in the Georgia General Assembly.
2. Prior to making any adjustment in the salary for the following personnel on either the Supreme Court or the Court of Appeals, the two courts will confer and make a diligent effort to reach agreement which will satisfy the needs of both courts: attorneys, administrative assistants, Clerk, Deputy Clerk, Fiscal Officer, Computer Technician, and Reporter of Decisions. (Source: September 1996 Banc meeting).
3. Prior to making any change in the Rules of the Court of Appeals, the court will confer with the Supreme Court.

B. SUPREME COURT

1. When the Supreme Court grants an interlocutory or discretionary appeal, it will keep and decide the case. When certiorari is granted on an interlocutory or discretionary appeal which the Court of Appeals has denied, and when the Supreme Court then reverses the denial of the application, the Supreme Court will keep the case and decide it on its merits.
2. Prior to changing the terms of the Supreme Court, the Supreme Court will confer with the Court of Appeals.
3. Prior to making an adjustment in the wages for the staff attorneys or administrative assistants, the Supreme Court will confer with the Court of Appeals and a diligent effort to reach agreement will be made.
4. Prior to making any changes in the procedural rules of the Supreme Court, the Supreme Court will confer with the Court of Appeals.
5. In the event the Supreme Court proposes legislation which affects the operation of the Court of Appeals, it will discuss such legislation with the Court of Appeals prior to its introduction.

**XI. PROTOCOL AT SWEARING-IN CEREMONIES AND
OTHER OCCASIONS SUCH AS RETIREMENT TRIBUTES,
MEMORIALS FOR DECEASED JUDGES, ETC.**

- A. The clerk/court administrator shall set up protocol on festive occasions, jointly with the Supreme Court, by way of a letter distributed throughout the state advising of proper protocol for introductions. The letter, prepared by the clerks of the two courts, shall be sent as invitations are received to particular functions such as bar admission ceremonies, state bar meetings, and other public affairs.
- B. A memorial shall be published in the court's reports for any judge who has served on the court, regardless of where the judge serves thereafter. However, there will not be a tribute, i.e., a live presentation in the courtroom.
- C. There shall be only one memorial tribute per issue of the Georgia Appeals Report.

XII. MEDIA COVERAGE OF COURT PROCEEDINGS

- A. The clerk/court administrator shall serve as the public information officer for the Court and shall disseminate any news articles relating to the Court or press releases as deemed appropriate by the Court.
- B. News coverage in the courtroom via audio and visual recording and transmitting equipment shall be allowed in the courtroom pursuant to the Court's order of February 23, 1994 attached hereto as Appendix 5.
- C. If any judge or administrative assistant is contacted by any news media, that fact should be referred to the public information officer who shall contact the news media representative, ascertain what information is sought by the news media and communicate that fact to the individual judge, the court, or Chief Judge, where appropriate. After the individual judge, the court or Chief Judge of the court has made the decision regarding the course of action, the public information officer will then appropriately advise the news media.

XIII. TRAVEL POLICY

A. Judges will be reimbursed for travel expenses for court related travel in accordance with state-wide travel regulations, except as § 45-7-20 may otherwise control. The court recognizes there is a need for continuing judicial education and the court has a requirement that each judge of the court receive 12 hours of mandatory continuing judicial education each year. To that end, judges should actively participate as lecturers, writers, and students and contribute, wherever possible, to the improvements of the legal profession and the administration of justice through independent and bar related conferences and associations.

1. The court's travel budget shall be divided into 13 equal shares by the fiscal officer as soon as practicable after the beginning of the new fiscal year. The Chief Judge shall be entitled to two shares of the travel budget and each other judge shall be entitled to one share of the travel budget. Two shares of the travel budget shall be reserved for the general travel fund. (Source: September 1996 Banc meeting).
2. Each judge may use his/her share of the court's travel budget for court related travel in or out of the state.
3. Any judge who wishes to utilize travel funds in excess of his/her share must request additional monies from the general travel fund. Such request must be made to the Executive Council and the Executive Council may approve or disapprove such request.
4. Any travel funds not utilized by an individual judge shall lapse into the general travel fund. Any judge may direct all or part of his/her share of the travel funds to the general travel fund.

All employees and court personnel, other than judges, shall be subject to the state-wide travel regulations. Any approved travel for non-judicial personnel of the court shall be reimbursed out of the general travel fund.

B. Tuition and scholarship registration. The fiscal officer shall as soon as practicable after the beginning of the new fiscal year, divide the portion of the court's budget which is set aside for tuition and scholarships into ten equal shares, one share for each judge. (Source: September 1996 Banc meeting).

For any amount more than \$500, a request shall be submitted to the Executive Council and the Executive Council may approve or disapprove such request.

- C. The fiscal officer shall carefully review all travel expense statements of judges and other court personnel to ascertain if such travel expense statements are in conformity with court travel policy and the state-wide travel regulations.

If the judge and the court fiscal officer cannot agree upon the interpretation of the court travel policy, then the matter shall be submitted to the Executive Council for final resolution.

XIV. INQUIRIES REGARDING CASES

- A. Any inquiry by phone or visit or letter from the media, a litigant, attorney, witness, or party to a case currently pending, or past or future, shall be referred to the clerk/court administrator of the court. This shall include but not be limited to inquiries regarding status of the case or to whom assigned.

- B. All communications with the clerk/court administrator's office with regard to the necessity of communicating with or giving directions to the lower court clerk's office must be made through the judge to whom the case has been assigned.

XV. CASE MANAGEMENT

A. COURT RECORDS

Except for persons assigned as backup and for lunch period, or as specifically authorized by the clerk/court administrator, all other court personnel, clerk's office included, must check out records from records clerk or acting records clerk. None but judges and their specific designees shall be permitted to take case records out of the building. At the discretion of each judge, briefs and draft opinions may be taken out by judges or their staff attorneys.

B. DOCKETING SHEET

A sheet which is sent to the administrative assistant from the clerk's office as each case is docketed. Cases shall be docketed within 24 hours after presentation to clerk's office.

C. PANEL LIST

First list of monthly cases for the panel which comes from the clerk's office after the docket is closed for each month. (This is the spread sheet which goes to each judge's office from the clerk's office.)

D. MONTHLY CASE NUMBER SHEET

A list which a judge's administrative assistant makes up of the cases assigned to that judge as the summary sheets are received by his/her office from the clerk's office. It is completed when the docket closes for the month.

E. ORAL ARGUMENT - COURT CALENDAR

1. A timely request for oral argument shall be granted on the vote of one judge; such request shall be circulated to the panel only if the judge to whom the case is assigned votes to deny it. (Source: Minutes, June 1995 Banc meeting).
2. An out-of-time request for oral argument shall be granted or denied upon the vote of the judge to whom the case is assigned. An out-of-time request to argue shall not be circulated to the panel. (Source: Minutes, February 1996 Banc meeting).

3. The court shall publish a printed list of names and numbers of cases and the order in which they will be heard in court. In the event of attorney time conflicts in court settings, the court will do the best it can to conform to the policy set out in the state/federal court resolution and will try to work out the conflict with the other judge involved.

F. BENCH DOCKET

The clerk/court administrator shall maintain a list of cases which will be argued. The bench docket shall include the names of the attorneys and the identification of any pro se parties. The docket shall be maintained in the clerk's office and shall be brought into the courtroom during oral arguments.

G. DOCKETING SYSTEM

1. The clerk's office shall maintain a computerized docketing system which shall be approved by the court.
2. The system shall also be backed-up daily to a hard disc and weekly to a magnetic tape stored off site. The system shall also be backed up with a hard copy maintained in the clerk's office.
3. The court shall review the docketing system periodically, making changes where appropriate and after consultation with the court data processing personnel and the clerk/court administrator.
4. The clerk's office shall provide a view only terminal in the public area of the clerk's office for public access and viewing of the court's docket. (Source: Minutes, February 1996 Banc meeting).

H. COURT MINUTES & INDEX

The Minute Book of the court shall be kept in the office of the clerk/court administrator. The minutes shall be generated by the data processing personnel on an annual basis or more often if required by the court. (Everything that goes into the system, that is, the computerized docket, is printed out and maintained in a hard copy in the clerk's office.)

I. CIRCULATION OF CASES

1. Each case will go to the other two judges on the division for review and initials. If one writes a dissent, the case must be shown to the judge to whom the case is assigned, and shown again to the other judge if he/she has already voted, and then it must be marked "Whole Court" and circulated. The prevailing judge will put the case out, correcting the judgment line on the last page of the opinion to include those concurring and those dissenting.
2. If a judge writes a special concurrence, it is not necessary to circulate to the whole court unless it is otherwise a whole court case, but it is necessary that the opinion be shown to the assigned judge and the other judge on the division. Any time something new has been written, the case must be recirculated to all who have seen it before. Any memo or writing between judges shall be dated so as to show chronology, should circulate to author of the opinion first, and then recirculate.

J. DISSEMINATING CASES

1. After all the necessary judges have initialed the draft and it is returned to the assigned judge, the administrative assistant shall prepare the final opinion, photocopy eleven copies, put a brad in the original, staple remaining copies, complete the judgment line, and take the record with the original and nine copies to the clerk's office to be disseminated. If there are any dissents or special concurrences, they also must be collected and assembled behind the majority opinion before dissemination of the case. The judgment line must be changed to reflect any dissents or special concurrences. At the option of the judge-in-charge, photocopies shall be made by the clerk/court administrator's office.
2. Examples of proposed, suggested and approved judgment lines are attached in Appendix 9 and should be used whenever possible to maintain uniformity.
3. In certain cases involving security risks, judgment lines may disseminate as "Division Per Curiam, All Judges Concur." (Source: Minutes, January 1996 Banc Meeting).
4. If the original opinion is published and the Supreme Court reverses the opinion, the rewritten opinion shall be published. (Source: Minutes, January 1996 Banc Meeting).

K. MOTIONS FOR RECONSIDERATION

1. If the case returns, the assigned judge will review and initial it and circulate it to the judges who originally voted on it. When all reconsideration work has been done, the case shall then be taken back to the clerk/administrator's office to be disseminated.
2. If the motion for reconsideration is granted and if the judgment line changes, an order granting the motion for reconsideration shall go out and the new opinion shall go out.
3. The clerk/court administrator shall not refuse to accept tardy motions for reconsideration. Generally, untimely motions for reconsideration will be dismissed, however, the judge to whom the case is assigned may take into consideration the reasons for the untimeliness, such things as problems with mail delivery.
4. Second motions for reconsideration will be dismissed if they are not accompanied by a motion for permission to file second motion for reconsideration.
5. If there is a dissent on reconsideration, the case goes to a seven judge court, or, if the Court deems it appropriate, whole court. In addition to the "blue slip," the circulating judge should provide the usual place for judges to initial "concur" or "dissent."
6. When an opinion is changed by substitute pages or other revisions on rehearing or for other reasons, the office of the judge to whom the case is assigned is responsible for putting the revised opinion together and submitting it to the clerk/court administrator's office.

L. ASSIGNMENT OF CASES

1. Cases are assigned on a strict automatic rotation basis, except for companion cases and pre-assigned cases. There shall be two wheels for direct appeals: civil and criminal. There shall be two wheels for applications: interlocutory and discretionary. Each judge shall receive, as nearly as possible, an equal number of civil direct appeals and criminal direct appeals throughout the docket year. Except for the Chief Judge, who will not receive applications, each judge shall receive, as nearly as possible, an equal number of interlocutory and discretionary applications throughout the year. (Source: September 1996 Banc meeting).
2. Separate appeals by joint defendants shall be assigned to the same judge.

M. PUBLICATION

1. In cases where no motion for reconsideration is made, the opinion of the court shall be disseminated for publication immediately after the expiration of 10 days from the date of the decision. In cases where motions for rehearing are made, the opinions are to be put out for publication immediately after the expiration of 10 days from the final disposition of the motion. In cases where notice of intention to apply for the writ of certiorari is given, in order to avoid delay in the printing of the court's opinions, the Reporter, acting in cooperation with the clerk/court administrator, shall use a photostatic copy or any other true and correct copy of the opinion, and have the opinions of the Court of Appeals published without waiting for the expiration of 30 days from the denial of the motion for reconsideration. It is the purpose of this resolution to expedite the publication of the opinions of the Court of Appeals, and the clerk/court administrator and the reporter, in order to carry out the intention of this resolution, may disregard the chronological date of the decisions of the court and in doing so may use their discretion to this end.
2. In the event of disagreement as to the application of Rule 34, the matter will be handled the same as a dissent.
3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.
4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

Judges shall draw their own orders except for routine orders. The clerk/court administrator, when obtaining orders or directions from a judge or judges, shall reduce the same to writing and shall obtain thereon the initials of the judge or judges who gave the order or direction. Such orders or directions shall be maintained in the file.

O. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court:
 - a. Only the order of transfer shall be sent to the Supreme Court along with the case, unless the transferring judge desires the opinion to be

published. The remittitur does not go out. The judge assigned to the case may also send up a copy of the file memorandum analyzing the reason for transfer.

- b. Each judge shall devise a system in his/her office to ferret out early those cases over which the Supreme Court, rather than this court, has jurisdiction, for prompt transfer. Transfers at the end of a term should be prevented.
- c. The central staff attorney shall draw the entire order on transfer.

2. From: The Supreme Court:

- a. The docketing date in this Court of a case transferred from the Supreme Court is the date on which the record is received in this Court.
- b. When no briefs have been filed and an appeal is transferred from the Supreme Court and docketed in this Court, the time for filing briefs runs from the date of docketing in this Court.
- c. If appellant's brief and enumeration of errors and appellee's brief have been filed in the Supreme Court, no additional briefing is required in this Court.
- d. However, the time for filing of the appellees' brief always runs from the date of filing of appellant's brief and enumeration of errors, whether the appellant's brief and enumeration of errors is filed in this Court or the Supreme Court.

P. EXTENDING TERM - EXPEDITING CASES

1. In the case of an emergency, based on the authority of Fuller v. State of Georgia, 232 Ga. 581 (1974), and Shore v. Shore, 253 Ga. 183 (1984), the court may render a judgment until the last day of the term if necessary, provided six judges concur. (Source: September 1996 Banc meeting).
2. If the appeal is from an order involving the custody of a child, a parent's visitation rights to a child, a child allegedly deprived, or parental rights, the decision in the case shall be expedited. (See OCGA § 19-9-64, part for Uniform Child Custody Jurisdiction Act, showing legislative desire to expedite resolution of such matters.) (Source: Minutes, April 1996 Banc meeting.)

Q. INTERLOCUTORY AND DISCRETIONARY CASES

1. If the application or response is not whitebacked, the clerk/court administrator will call the attorney (if the first offense) to advise that the clerk/court administrator, will put a cover on and advise the attorney that if it occurs again, a \$10 penalty will be assessed. The Chief Judge will ascertain to which account the assessment would be deposited.
2. If discretionary and interlocutory applications are received without the requisite stamp "filed orders", the Clerk's Office shall issue an order directing the applicant to submit a stamped "filed" copy of the order being appealed or the certificate of immediate review. Said order shall be delivered to the court physically within ten days of the date of the Court's order requiring the stamped filed copy to be filed.
3. Because of the short time the Court has to deal with applications, the certified mail rule will not be deemed sufficient filings for purposes for complying with the order to file a stamped filed copy of the order or certificate of immediate review.
(Source: Minutes - February, 1996 Banc Meeting)

R. CHANGE FROM SEVEN JUDGE OR WHOLE COURT TO PANEL CASE

1. If after a case becomes a seven-judge case or a whole court case, the original dissenter agrees with the panel, the case shall again become a panel case unless there is some other reason for it to remain seven-judge or whole court. If a dissenter withdraws his/her dissent, he/she must have the concurrence of any member outside of the panel who joined the dissent or who has separately dissented. (Source: September 1996 Banc meeting).
2. A vote of two to one is sufficient to impose a penalty on appeals deemed frivolous. A dissent shall not cause the issue of frivolous appeals to go whole court.

S. VOTING ON OPINIONS

When a judge writes a concurrence or dissent or memo, he/she shall cross out all signatures above his/hers and recirculate. The author of the majority is responsible for recirculating with every new writing.

T. COURTESY COPY

When an opinion cites a case which emanates from a court other than the Court of Appeals of Georgia or the Supreme Court of

Georgia, or is an unpublished opinion of one of those two courts, the citing Judge should attach a copy of it to the circulating case.

U. REVISED OPINION

When an opinion is revised after circulation, the revised opinion should be marked "Second Circulation" or "Revised" or whatever is appropriate, advising the reader that he/she may have seen the case before but not the changes made in the opinion.

V. DATING COMMUNICATIONS

Votes, memos, other writings involving cases should always be dated by the author of the communication. The court-provided memorandum forms (8-1/2" x 11" paper or 5-1/2" x 8-1/2" pads) should be used.

W. OVERRULING PRIOR CASES

When an opinion seeks to overrule a prior decision, the author should attach a memo so stating, showing the panel members of the case being overruled. If a judge who participated in that opinion is still on the court, the overruling opinion should be circulated to him/her first, even before it goes to the overruling author's panel members.

This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

X. REBRIEFING

When Rule 23 of the Rules of Court is not complied with, any member of the panel may initiate through the assigned judge a request for a corrected brief which shall comply with the Rule. If a Rule-complying brief is not submitted within the time granted, the case may be considered in default as to that party.

Y. FORMAT

1. Opinion shall be double-spaced when the opinion goes to the clerk's office for mailing out. (Effective: All cases docketed on or after September 15, 1991; all other pending cases, January 1, 1992.)
2. Margins shall be justified.
3. If a drafter uses "held," only the "H" will be capitalized.

4. "In the Court of Appeals of Georgia" shall not be centered or capitalized. The Judge's name and the case name shall be capitalized.
5. When opinions are released, they will not bear the judge's personal number or the words "affirmed or reversed" at the top of the first page, but the court's short number will appear. The judge's personal number and "affirmed or reversed" will appear only for circulating purposes.
6. "In the Court of Appeals of Georgia" will appear from the left margin rather than centered.
7. Opinions, orders and all other internally generated documents which become part of the record in a case shall be on letter size (8-1/2" x 11") paper.
*(Effective: All cases docketed on or after September 15, 1991, all other pending cases, January 1, 1992).

Y. (a) WITHDRAWAL OF COUNSEL

The following order shall be entered in civil cases:

Court of Appeals
of the State of Georgia

ATLANTA,

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

Upon consideration of the motion of appellant/appellee's attorney to withdraw as counsel, the Court has no objection, subject to counsel's compliance with all applicable provisions of the Code of Professional Responsibility. The Court neither approves nor disapproves counsel's withdrawal as attorney for appellant/appellee, but the records of this Court will reflect such withdrawal and, until further notice, all notices will be sent directly to appellant/appellee.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk

Z. WITHDRAWAL OF APPEAL

An order granting permission to withdraw an appeal will not be issued unless all motions are ruled on, are withdrawn or are moot.

XVI. PURCHASING POLICY

- A. The Court of Appeals shall purchase such books, pamphlets, or other publications and such other supplies and services as the judges thereof may deem necessary. (Source: OCGA § 15-3-12). **See also: I, K. PURCHASING COMMITTEE.**
- B. Georgia Legal History Foundation fees of \$30 per judge per year, and the American Bar Association and Judicial Administrative Division annual dues, shall be paid from court funds.
- C. Effective July 1, 1994, the Court will pay basic State Bar dues for staff attorneys.
- D. The court will send one staff attorney per year to the annual CASA meeting and reimburse for expenses. The attending attorney's first year of ABA/CASA membership dues will be paid by the court with the understanding that the staff attorney will be expected to maintain membership at personal expense thereafter. (Source: Minutes, April 1995 Banc meeting).
- E. The annual National Association for Court Management regular membership dues for the clerk/court administrator shall be paid from court funds. (Source: Minutes, August 1995 Banc meeting).
- F. The annual dues for each judge for the Judicial Section of the Atlanta Bar Association shall be paid from court funds. (Source: Minutes, August 1995 Banc meeting).

XVII. CONFIDENTIALITY

- A. The work of each judge with his/her staff shall remain confidential with that staff unless expressly authorized by the judge and then may be shared only to the extent permitted.
- B. The work of the court, and its operations, shall be kept confidential except as agreed by the court and to the extent required by law. The Chief Judge, or his/her designee specified for the purpose, shall be the spokesperson for the court.

XVIII. EN BANC MEETINGS

- A. The Court of Appeals will hold en banc meetings on the fourth Tuesday of every month except August and December, at 10:00 a.m. The Chief Judge may for good cause change the date of a particular meeting. The regular banc sessions shall be held notwithstanding that additional special en banc session may be set by the Chief Judge. No en banc meetings shall interfere with the setting of oral arguments.
- B. A quorum of six judges is necessary for the holding of banc. Subject to the rule requiring ten days' notice or the required consent of at least seven judges, an affirmative vote of six judges will always be necessary in passing or adopting any motion, resolution or official action of the court. (Source: September 1996 Banc meeting).
- C. Effective January 1, 1967, all motions or resolutions acted upon or other official actions taken in banc sessions shall be reduced to writing and entered upon the minutes, indicating thereupon how each judge voted. The vote of each judge shall be cast by him/her in person while attending the banc session and not otherwise. No judge shall be allowed to vote by proxy.
- D. The clerk/court administrator shall serve as the secretary of the court for the purpose of effectuating this rule.
- E. Once a motion, resolution or proposition is acted upon, no motion, resolution or other proposal calling for a change in the action taken shall be considered or acted upon unless ten days written notice of the proposed change shall have been given to each judge of the court, provided, however, this rule may be waived by the consent of eight of the judges. (Source: September 1996 Banc meeting).

XIX. RECORD RETENTION SCHEDULE

Each Court of Appeals record is stored in Room 334, during the pendency of the case and, depending on space, for a period of one year after the remittitur is sent. Records of cases docketed through 1991 are stored at State Archives in boxes numbered for identification and prepared for transmittal to the Georgia State Archives and History Building for storage. If an archived record is requested, the Clerk/Court Administrator's office can advise requesting party of the box and location number and the party may go to the State Archives Building and request to see the record and copy any document. The record can be ordered by the Clerk/Court Administrator's office and will usually arrive the next business day after 2:00 p.m. The public should be encouraged to go to Archives to examine the records and delivery of Archive records should reserved for the court.

Since Archives has refused to accept the court's records since 1993, the court has adopted a record retention schedule which calls for the destruction of the record and transcript one year after the remittitur has gone out, if the party paying for the record does not request to receive the record and make arrangements to come to the court and pick up the record. The court will maintain for a period of years the briefs, enumeration of errors, motions, orders, and original opinion.

The court may utilize the Water Lab in the basement of the Health Building as offsite storage facility until such time as additional space may be obtained for record storage in the Clerk's office or court. See Appendix 10 for Records Retention Schedule. (Source: Minutes, November 1995 Banc meeting).

XX. SUPERSEDEAS BOND

Whether the motion is denied in the trial court or initially made here, the Court of Appeals will order that the trial court require supersedeas bond in an amount and under conditions determined by the trial court after hearing. OCGA § 5-6-46. Jurisdiction of the appeal will not be affected. Unless accompanied by a supersedeas bond, all applications for stay are to be denied in civil cases, wherein application for certiorari to the Supreme Court of the United States has been made.

XXI. CERTIFIED QUESTIONS

- A. All certified questions are to be circulated to the whole court for information only.
- B. Whenever a panel certifies a question, it should be circulated to the rest of the court as courtesy so the whole court knows the question is being considered by the Supreme Court.

XXII. OPINION CONTENT

A. JUVENILE AND TERMINATION OF PARENTAL RIGHTS CASES

Neither the names of the parents nor that of the child will be included in the opinion; however, the normal designations will be used in adoption cases.

B. RECOMMENDED ROUTINE OPINIONS

The use of these recommendations, which were adopted in principle, is left to the sole discretion of each judge.

1. MISDEMEANOR

This being a misdemeanor case and in the opinion of this court without precedential value and not involving unique facts, the same is affirmed under Rule 36 of this court.

2. FELONY

Felony cases which are appealed solely on the general grounds.

There being evidence sufficient to convince any rational trier of fact of the existence of the essential elements of the crime, the judgment is affirmed. Jackson v. Virginia, 443 U.S. 307, 310 (99 SC 2781, 61 LE2d 560) (1979); Baldwin v. State, 153 Ga. App. 35, 37 (264 SE2d 528).

3. CIVIL

Civil case with no precedential value or no unique factual situation.

4. EXCESSIVE VERDICT

Sole enumeration of error being the excessiveness of the verdict.

The verdict fully within the range of the evidence the judgment of the court below is affirmed. Crankshaw v. Stanley Homes, Inc., 131 Ga. App. 840, 843 (207 SE2d 241); Camp Construction Co. v. Stembridge, 138 Ga. App. 555, 557 (226 SE2d 797).

5. DISCRETIONARY AND INTERLOCUTORY

No opinion to be written on discretionary and interlocutory if after reviewing the record, the appeal should not be affirmed by opinion.

After plenary consideration of this matter it is not found to satisfy the criteria for granting (interlocutory or discretionary) appeal and the application is therefore vacated.

6. RULE 36

Rule 36 is still alive and available. Cases may be affirmed without opinion if the evidence supports the judgment; no reversible error of law appears and the opinion would have no precedential value; or the judgment of the court below adequately explains the decision.

7. OPINIONS

All orders and opinions shall be published in the Georgia Appeals Reports, except as provided by Court Rule 34.

8. JUDGMENT LINES

Standard judgment lines should be used whenever possible. Examples of standard judgment lines and when they are used are found in Appendix 9.

XXIII. AUDITS

- A. The Department of Audits will provide each member of the court a copy of the court's annual audit.
- B. The fiscal officer will distribute a quarterly expense report to each judge individually and to the office of the clerk/court administrator.

XXIV. INCLEMENT WEATHER

- A. The court will be kept open to the extent possible.
- B. The office of the clerk/court administrator will be kept open to the extent possible.
- C. Each judge controls his/her own staff and the clerk/court administrator will decide if the clerk's office should remain open and whether an announcement should be made on the radio.
- D. It is within the discretion of each judge to decide if weather conditions warrant his/her employees absence without being charged leave.
- E. While recognizing the independence of the judicial branch of government, if the Governor announces that State offices will be closed because of inclement weather, the Court of Appeals will likewise close its offices.
- F. The Chief Judge, after consultation with the Clerk/Court Administrator, shall make the determination whether the Clerk's office and court shall close during inclement weather.
- G. Court closings or late openings shall be broadcast on WSB radio 750 AM and 98.5 FM and WFOX radio 97.1 FM.

XXV. POSTAGE METER AND TELEPHONE USE

The postage meter is not to be used for personal mail. No personal long distance telephone calls may be made.

XXVI. COPIES

The clerk's office shall provide copies of opinions at a cost of \$1.00 per page with a minimum of \$5.00 per opinion. Copies of the record may be purchased from the clerk's office at \$1.00 per page. Copies of indexes are \$1.00 per page with a minimum cost of \$4.00.

Beginning January 1, 1996, opinions may be purchased electronically through the Reporter's office by subscription at a cost of \$1.00 per page. Opinions purchased through the Reporter's office at a cost of \$1.00 per page have no \$5.00 per opinion minimum.

(Source: Minutes, November 1995 Banc meeting).

XXVII. ADMINISTRATIVE MINUTE BOOK

An Administrative Minute Book shall be kept and shall include court rules, the history and operations of the court such as comings and goings of employees, swearing-in, etc.

XXVIII. SPACE ALLOCATIONS

Space allocated to each judge's office as of May 31, 1994, shall remain with that office. (See Appendix 6.) There shall be space succession and not succession of persons.

XXIX. PROCESSING OF OPINIONS

1. It is the duty of every judge to give his/her prompt attention to an opinion prepared by an associate. This duty results not only from common judicial courtesy but from the necessity of processing cases with reasonable diligence in view of the workload of the court. THE REVIEW OF OPINIONS PREPARED BY OTHER JUDGES SHALL HAVE FIRST PRIORITY OVER THE PREPARATION OF OPINIONS IN CASES ASSIGNED TO THE REVIEWING JUDGE. Opinions shall be reviewed and acted upon in the following order of priority:
 - a. Whole Court -- Distress.
 - b. Division -- Distress.
 - c. Whole Court -- Non-Distress.
 - d. Division -- Non-Distress.
 - e. Cases assigned to author judge -- Distress and non-Distress.
2. This is not a fixed rule but expresses guidelines which, when reasonably possible, will be followed.

XXX. MANDATORY CONTINUING JUDICIAL EDUCATION

A. Minimum:

1. Each judge of the Court of Appeals of Georgia shall complete a minimum of twelve (12) hours of actual instruction in an approved continuing judicial or legal education activity during each year beginning January 1, 1986. If a judge completes more than twelve hours in a year, the excess credit may be carried forward and applied to the educational requirement for the succeeding two year period.
2. Each judge shall complete a minimum of two (2) hours of continuing judicial legal education activity during each year beginning January 1, 1986, in the area of legal or judicial ethics. These hours are to be included in, but not in addition to, the twelve hour requirement. If a member completes more than two hours in ethics during a year, the excess ethics credit may be carried forward to a maximum of four (4) hours and applied to the ethics requirements for two succeeding years.
3. The Court of Appeals may exempt a judge from the continuing judicial education requirements but not from the reporting requirements of this rule for a period of not more than one year upon a finding by the court of special circumstances unique to that member constituting undue hardship.

B. Reporting

1. On or before January 31 of each year commencing in 1987, each judge shall make and file with the clerk/court administrator of the Court of Appeals evidence of compliance with the requirements of the program for mandatory continuing judicial education. If available, there shall be attached to such report a certification from the sponsor of the programs in which the reporting judge participated stating the fact of the participation.
2. Each judge shall keep his/her certificates of attendance, or file them with the clerk/court administrator along with the certificate of compliance herewith. Questions as to full or partial credit, or whether the course qualifies for credit, shall be left with each judge.

C. Creditable Activities:

Continuing education programs for which a judge may receive qualifying credit shall include:

1. Programs of the Appellate Judges Conference sponsored by the American Bar Association;
2. Programs sponsored by the Institute of Continuing Judicial Education of Georgia;
3. Programs of continuing legal education accredited by the Commission of Continuing Lawyer Competency of the State Bar of Georgia, including all programs of the Institute of Continuing Legal Education;
4. Programs sponsored by any law school accredited by the American Bar Association;
5. Such other programs of continuing judicial or legal education as may be approved by the Court of Appeals of Georgia.

D. Credit for Teaching:

For teaching in a program qualifying under Section (C) above, a judge shall be given three hours credit for each hour of instructional responsibility when no handout paper is required but preparation is necessary and is conducted, and six hours for each hour of instructional responsibility when a handout paper is required and prepared. When the same lecture or instructional activity is repeated in a single fiscal year, additional credit shall be given equivalent to the actual time spent in delivering that presentation.

E. Noncompliance:

1. In the event a judge shall fail to comply with the requirements of the rules for Mandatory Continuing Judicial Education at the end of an applicable period, such judge may submit to the Court of Appeals a specific plan for making up the deficiency of necessary hours within sixty (60) days after the last day for the reporting of activities for the preceding year.
2. In the event such plan is not submitted, or in the event a plan is submitted but not complied with during the sixty (60) day period, the Court of Appeals shall administer a reprimand to the noncomplying judge and the fact of such reprimand may be noted and published in the Court of Appeals Reports.

XXXI. CONTEMPT PROCEDURES

A. INITIATION OF PROCEEDINGS

1. If any division member believes that the conduct of an attorney may be contemptuous, that judge shall prepare a show cause order specifying the conduct at issue and the rules, statutes, or other standards claimed to have been violated.
2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and final vote with names shall be shown but no written dissent shall be published.

B. SERVICE

The show cause order shall be served by certified mail, return receipt requested.

C. CONTEMNOR'S RESPONSE

The order shall give the option to the contemnor to respond at an oral hearing or by the filing of a sworn affidavit. The date of said hearing or date for filing said affidavit shall be set by the presiding judge of the division from which the order issues.

D. HEARING

If a sworn affidavit is not filed by the date specified, the clerk/court administrator shall assume a hearing is chosen and shall make arrangements for a court reporter to record the proceedings. It shall be the court's option to cast the costs of takedown and transcription upon the contemnor.

E. FILING

Filing for purposes of this rule shall mean received in the clerk/court administrator's office of this Court, and the contemnor shall be so informed.

F. DECISION

1. Following the hearing or receipt of the affidavit, the initiating judge shall prepare a written order, including findings of fact and conclusions of law based upon the record before the Court. The beyond reasonable doubt standard shall be applied if the order imposes punitive measures.

2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and the final vote with names shall be shown but not written dissent shall be published.
3. No motion for reconsideration shall be allowed.

G. PUNISHMENT

The court may impose punitive and/or remedial measures in consequence of a finding of contempt. Punitive measures may include a fine of up to \$1000; a public reprimand, to be included in the official reporter; a private reprimand, issued in order form to the contemnor; temporary or permanent suspension from the bar of this court. Remedial measures may include suspension from the bar of this court until any order of this court is obeyed.

H. NOTICE TO STATE BAR

In any case in which an order finding contempt is entered, the clerk/court administrator of this court shall forward the record of such proceeding to the Disciplinary Board of the State Bar of Georgia.

I. FRIVOLOUS APPEAL

1. Whenever the court enters an order finding any party or attorney in contempt, and assessing a fine for contempt or whenever the court awards damages for a frivolous appeal or any other monetary sanctions, the court shall issue a separate order, separate and apart from the opinion, specifically stating what monetary damages are assessed against which attorney or which party and to whom the monetary damages should be paid.
2. Any such orders on contempt, frivolous appeals or monetary sanctions shall be flagged and copies of such orders shall be sent to the clerk/court administrator, and the clerk/court administrator shall follow-up on the matter and ascertain that the court's orders are being followed.

XXXII. PROTOCOL ON DISQUALIFICATION AND RECUSAL OF JUDGES

A. DISQUALIFICATIONS.

Whenever a case is assigned to a judge and that judge is disqualified, that judge shall notify the Clerk's Office by memorandum that that judge is disqualified and that the case is to be transferred to another judge.

1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel one, and so forth.
3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.
5. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
6. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel number; notify all judges' offices involved in the transfer by memorandum; change the judge and color code on the record; and deliver the record, transcript, exhibits, motions, briefs etc. to the newly assigned judge.

7. If, the case to be reassigned is a previous year's case, and the year's docket has closed, there will be no out-of-term assignment back to even the wheel. If the case to be reassigned is in the current docket year, the Court's docketing system will automatically even out the case assignments.
8. If upon reassignment to the next judge on the panel or the corresponding judge on the next panel, that next judge is also disqualified, then the assignment will be to the judge on the third panel in the corresponding slot. Should that judge also be disqualified, the Clerk shall comprise a panel of judges to hear the case. The next case docketed on the wheel will be assigned by the computer to the disqualified judge in order to keep the wheel in balance and assign cases equally, unless the previous year's docket has closed, and in such case there will be no out-of-term assignment back to even the wheel.

(Source: Minutes, November 1995 Banc meeting).

B. RECUSALS

When a motion to recuse a judge from a particular case is filed, the following protocol shall be used.

1. Whenever a judge is presented with a motion to recuse or disqualify, accompanied by an affidavit, the judge shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming the facts in the affidavit are true, whether recusal is warranted.
2. If it is found that the motion is timely, the affidavit sufficient and the recusal would be authorized if some or all of the facts set forth in the affidavit are true, the judge shall report that fact to the Chief Judge, who shall assign another judge to pass on the motion to recuse.
3. If the assigned judge finds that sufficient facts are presented which would authorize the recusal of the judge from the case, the assigned judge shall so notify, by memorandum, the Chief Judge and the judge against whom the motion was filed.
4. In the event of recusal, the Chief Judge shall notify the Clerk's Office and the protocol on disqualification of judges and shall assign another judge to the matter.
5. If the assigned judge finds there are insufficient facts before the court to authorize a recusal of the judge against whom the motion is filed, that fact shall be made known to the Chief Judge by memorandum with a copy to the judge against whom the motion to recuse was filed.

6. Whether the judge against whom the motion was filed is recused or is not recused, an order shall issue from the Clerk's Office granting or denying the motion to recuse, as appropriate.
7. If the Chief Judge is the judge against whom the motion to recuse is filed, then the judge next in line for Chief Judge shall make the assignment.

APPENDICES

APPENDIX 1 - Request For Transfer of Property/Equipment.

APPENDIX 2 - Rules of the State Board Personnel.

APPENDIX 3 - Compliance with Act 761 (1985 General Session)

APPENDIX 4 - Approval Request Form.

APPENDIX 5 - Cameras in the Courtroom.

APPENDIX 6 - FLOOR PLANS (3, 4 AND 6)

APPENDIX 7 - PUBLICATION POLICY

APPENDIX 8 - SEXUAL HARASSMENT POLICY

APPENDIX 9 - GUIDELINES FOR JUDGMENT LINES

APPENDIX 10 - FLOWER FUND GUIDELINES

INVENTORY TRANSFER
10/94 FORM
CA-1

COURT OF APPEALS OF GEORGIA

Original to
Fiscal Office

REQUEST FOR TRANSFER OF PROPERTY/EQUIPMENT

Office transferring inventory shall initiate transfer form

PROPERTY TO BE TRANSFERRED FROM:	State Inventory	Description of
	Number	Property
PROPERTY TO BE TRANSFERRED TO:		

COMMENTS:

FISCAL OFFICE	REQUESTED:	DATE
	TRANSFERRED:	DATE
	APPROVED: CHIEF JUDGE	DATE
POSTED	FISCAL OFFICER	DATE

SECTION B.200. ANNUAL LEAVE AND TERMINAL LEAVE.

PAR. B.201. Annual Leave.

PAR. B.201.1. Full-Time employees on permanent, working test and provisional status shall earn leave as follows: (05-20-81/08-01-81)

<u>Length of Service</u>	<u>Rate of Accrual</u>
0 through 60 months inclusive	1 1/4 workdays (10 hours) per month
61 through 120 months inclusive	1 1/2 workdays (12 hours) per month
121 months and over	1 3/4 workdays (14 hours) per month

For purposes of this paragraph, the length of service will be computed from current continuous, unbroken service in a position entitled to earn leave with a state agency or other agency with employees in this classified service of the State Merit System. The length of service shall begin on the first day the employee actually reports to work; provided, however, when the first day of the month is a regularly scheduled nonworkday and the employee reports to work on the first workday of the month, the length of service shall be deemed to have begun on the first day of the month. (09-22-88/11-01-88)
Authority O.C.G.A. 45-20-3.

PAR. B.201.2 Part-time employees on permanent, working test or provisional status who work twenty (20) hours or more per week shall earn annual leave at the appropriate rate specified in Par. B.201.1 prorated by the percentage of time worked; provided, however, that fractions of an hour shall be disregarded and the leave earned shall be rounded to the nearest whole hour. (08-27-80/10-01-80)

PAR. B.202. Use and Limitations.

PAR. B.202.1. An employee may use accrued annual leave upon approval of the appointing authority. (09-23-87/11-12-87)

PAR. B.202.2. Annual leave shall be cumulative for not more than forty-five (45) workdays (360 hours). Any leave, earned in excess of forty-

PAR. B.110.5. All leave credits granted under the provisions of Par. B.110 shall be subject to post-audit and adjustment by the Commissioner. The Commissioner's action shall be final unless the department head requests a review of the Commissioner's action by the Board within thirty days after receipt of the Commissioner's action. The filing of a request for review shall stay the enforcement of the Commissioner's action. (12-14-84/12-27-84)

PAR. B.111. Return from Period of Disability; Conditions. The appointing authority may require any employee who is absent from duty because of illness or disability to supply an appropriate medical release or certification that the employee is able to return to unrestricted duty. Such release or certification may be required as a pre-condition to the employee's return to duty. (09-23-87/11-12-87)

PAR. B.112. Minimum Leave Period. The appointing authority, upon publication of a written departmental policy, may prescribe a minimum period of annual, sick and/or personal leave which will be charged for any use which is a fractional part of the minimum period. (08-24-89/09-14-89)

PAR. B.113. Absence After Leave Exhausted. Except as provided in Par. B.305.1, an employee who is absent after all annual, sick and personal leave is used shall be placed on regular leave without pay, contingent leave without pay, other leave without pay, or released in accordance with Par. 12.207. (08-24-89/09-14-89)

PAR. B.114. Lump Sum Payment for Accrued Leave. When an employee is granted a leave without pay of thirty days or more under the provisions of Par. B.401, Par. B.402, Sct.B.500, or Sct.B.700 the department may pay the employee in lump sum for all accrued annual leave not to exceed forty-five days. Any such payment shall be calculated according to the formula prescribed in Par. B.203.4. (12-14-84/12-27-84)

PAR. B.115. Limitation on the Use of Paid Leave. An employee shall not be allowed to use any type of paid leave, except as provided in Pars. B.305.5 and B.305.6, for any time that the employee receives any form of state-funded wage substitutes, including but not limited to workers' compensation. (05-24-90/05-30-90)
Authority O.C.G.A. 40-20-3.1(e).

position in the unclassified service shall be paid terminal leave pay not to exceed forty-five (45) days for any annual leave that cannot be transferred with the employee to the unclassified position; provided, however, such payment shall not be made except upon evidence satisfactory to the appointing authority that the employee cannot receive credit for the leave. (5-31-89/6-28-89)

SECTION B.300. SICK LEAVE.

PAR. B.301. Rate of Accrual.

PAR. B.301.1. Full-time employees on permanent, working test and provisional status shall earn sick leave at the rate of one and one-fourth (1 1/4) workdays (10 hours) per calendar month of service. (08-27-80/10-01-80)

PAR. B.301.2. Part-time employees on permanent, working test and provisional status who work twenty (20) hours or more per week shall earn sick leave at the rate of one and one-fourth (1 1/4) workdays (10 hours) per month prorated by the percentage of time worked; provided, however, that fractions of an hour shall be disregarded and the leave earned shall be rounded to the nearest whole hour. (08-27-80/10-01-80)

PAR. B.301.3. Sick leave shall be cumulative for not more than ninety (90) workdays (720 hours). Any leave earned in excess of ninety (90) days at the end of any month is forfeited but may be restored to the employee as provided in Par. B.302. (05-20-81/08-01-81)

PAR. B.302. Restoration of Forfeited Leave. In the event of illness or disability which exhausts available sick and annual leave, the appointing authority may restore as much sick leave forfeited because of the limitation of Par. B.301.3 and as much annual leave forfeited because of the limitation of Par. B.202.2, as is required by the circumstances of the illness or disability. Such restoration shall be limited to the leave forfeited during the current period of employment. (5-31-89/6-28-89)

PAR. B.303. Use of Sick Leave.

PAR. B.303.1. Upon approval of the appointing authority an employee may use accrued sick leave for absence due to personal illness or disability; absence necessitated by exposure to contagious disease by reason of which exposure the health of others would be endangered by

five (45) days at the end of any month is forfeited but may be restored to the employee as provided in Par. B.302. (05-20-81/08-01-81)

PAR. B.203. Terminal Leave.

PAR. B.203.1. Terminal leave is accrued annual leave for which payment is due upon an employee's separation from employment by death, retirement, resignation, dismissal, abandonment or separation in any manner. (09-23-87/11-12-87)

PAR. B.203.2. When a separation date has once been fixed administratively so as to permit the employee to be paid terminal leave, the pay status of the employee shall not be extended for the purpose of granting a holiday or unanticipated non-workday occurring after the last day in pay status. (09-23-87/11-12-87)

PAR. B.203.3. When an employee notifies the appointing authority of termination, the employee shall not be continued on the payroll in leave with pay status for the purpose of increasing the current salary to a higher step of the pay range, increasing the rate of leave accrual or the rate at which accrued leave would be paid. (5-31-89/6-28-89)

PAR. B.203.4. Terminal leave shall be paid for all accrued and unused annual leave which has not been forfeited not to exceed forty-five (45) days.

PAR. B.203.5. Terminal leave pay shall be calculated according to the following formula: (5-31-89/6-28-89)

a. Determine the annual base salary last received by the employee. Part-time salary must first be converted to an equivalent full-time salary; (5-31-89/6-28-89)

b. Determine the value of each day of leave by dividing the employee's annual salary by two hundred sixty (260); (5-31-89/6-28-89)

c. Multiply the result by the number of days of terminal leave which the employee is eligible to be paid in accordance with Par. B.203.4 (5-31-89/6-28-89)

PAR. B.203.6. Notwithstanding other provisions of this regulation, an employee who separates from the classified service to accept a

or occupational disease which is compensable under the Georgia Workers' Compensation Act, until the employee elects in writing to use accrued leave in lieu of worker's compensation benefits. The leave granted for such purpose shall be credited on a day-for-day basis as compensation against any indemnity award by the State Board of Workers' Compensation. A written election to use accrued leave in lieu of worker's compensation benefits may be executed prospectively. (05-24-90/05-30-90)
Authority O.C.G.A. 31-29-1.

PAR. B.305.3. Sick Leave Exhausted. If an absence because of illness extends beyond sick leave accrued to the credit of an employee, such additional time will be charged accrued annual leave unless the employee applies for, and the appointing authority approves, a leave of absence without pay. (5-31-89/6-28-89)

PAR. B.305.4. Donation of a Kidney (O.C.G.A. 45-20-31). An employee who donates a kidney for the purpose of transplantation shall receive a leave of absence with pay of thirty (30) days and such leave shall not be charged against or deducted from any annual or sick leave and shall be included as service in computing any retirement or pension benefits. The employee shall not be entitled to such leave of absence unless a statement from a medical practitioner who is to perform such transplantation procedure or from a hospital administrator that the employee is making a kidney donation as provided in this paragraph is furnished to the supervisor or other proper authority. If the donation does not occur, the provisions of this paragraph shall not be applicable (09-23-87/11-12-87)
Authority O.C.G.A. 45-20-31.

PAR. B.305.5. Disability Due to Certain Injuries. A full-time employee who becomes physically disabled as a result of a physical injury incurred in the line of duty and caused by a willful act of violence committed by a person other than a fellow employee shall be entitled to a leave of absence for the period that the employee is physically unable to perform the duties of the employee's position not to exceed 180 working days for any single incident. Such leave of absence shall be in lieu of sick leave and the employee shall be compensated as provided by law. The employee shall be required to submit satisfactory evidence of such disability to the head of the department. For the purpose of this paragraph: (09-22-88/11-01-88)

the employee's attendance on duty; absence for dental or medical care; and for absence due to dental care or medical care, illness, accident or death in the employee's immediate family which requires the employee's presence. (5-31-89/6-28-89)

PAR. B.303.2. For the purpose of this regulation, immediate family means the employee's spouse, child, parent, brother and sister. Immediate family also includes any other person who resides in the employee's household and is recognized by law as a dependent of the employee. (08-27-80/10-01-80)

PAR. B.303.3. The employee may be required to furnish evidence satisfactory to the appointing authority for the use of accrued sick leave. (08-27-80/10-01-80)

PAR. B.304. Personal Illness During Period of Annual Leave. If an employee is ill for three (3) workdays or more during a period of annual leave, the period of illness may, upon presentation of satisfactory written evidence, be charged as sick leave. The charges against annual leave shall then be reduced accordingly, provided that the request for substitution of sick leave for annual leave is filed with the appointing authority within two (2) weeks after the employee has returned to duty. No such substitution shall be allowed for illness which does not last for three (3) workdays or more. (08-27-80/10-01/80)

PAR. B.305. Special Situations.

PAR. B.305.1. Tuberculosis or Infectious Hepatitis (O.C.G.A. 31-29-1). An employee who contracts tuberculosis or infectious hepatitis while charged with the care, treatment or diagnosis of persons infected with tuberculosis or infectious hepatitis shall, upon exhaustion of all available sick and annual leave, be granted a leave of absence at one-half (1/2) of total compensation or \$150 per month whichever is less for the duration of the disability due to tuberculosis or infectious hepatitis, not to exceed three hundred and fifty (350) weeks. An employee on leave of absence under the provisions of this paragraph shall be given credit for all salary adjustments and advancements which would have been received had the employee remained on the position in the same capacity and status the employee held at the time the leave of absence was granted. (09-23-87/11-12-87)

PAR. B.305.2. Compensable Injury or Disease. An employee shall not be allowed to use accrued leave for absences due to an accidental injury

returning from such duty, not exceeding a total of eighteen (18) workdays in any one calendar year and not exceeding eighteen (18) workdays in any one continuous period of such absence. (10-21-87/11-12-87)

PAR. B.503.2. An employee ordered to military duty with personal consent shall, if the period of ordered duty is thirty (30) calendar days or less, be paid the salary or other compensation as such employee while engaged in the performance of such duty, and while going to and returning from such duty, not exceeding a total of eighteen (18) workdays in any one calendar year and not exceeding eighteen (18) workdays in any one continuous period of such absence. (10-21-87/11-12-87)

PAR. B.503.3. An employee ordered to military duty with personal consent shall, if the period of ordered duty is more than thirty (30) calendar days, be granted a leave of absence without pay for such period as required by law. (09-23-87/11-12-87)

PAR. B.503.4. In the event the Governor declares an emergency and orders an employee to State active duty as a member of the National Guard, the employee, while performing such duty, shall be paid the salary or other compensation as such employee for a period not exceeding thirty (30) workdays in any one calendar year and not exceeding thirty (30) workdays in any one continuous period of such State active duty service. (09-23-87/11-12-87)

PAR. B.504. Leave of Absence to Attend Service Schools. An employee who is or becomes a voluntary member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States shall be entitled to be absent from work and shall be deemed to have a leave of absence from duty while in attendance, as a member of such force or reserve component, at any service school or schools conducted by the armed forces of the United States, and while going to and returning from such school or schools, notwithstanding that orders for such attendance are or may be issued with the consent of the employee. (09-23-87/11-12-87)

PAR. B.505. Leave of Absence for Active Duty, Active Duty for Training and Inactive Duty Training. An employee who enlists or is inducted into the armed forces of the United States, or any reserve component thereof, and is ordered to active duty, active duty for training or inactive duty training shall be entitled to a leave of absence for such period as is provided by law in each case. (08-27-80/10-01-80)

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PAR. B.407. Leave Without Pay Limited. A continuous leave of absence under the provisions of Par. B.401 or Par. B.402, or any combination thereof, shall not exceed twelve months except as provided in Par. B.405. (12-14-84/12-27-84)

SECTION B.500. MILITARY LEAVE.
(O.C.G.A. 38-2-279)

PAR. B.501. Definitions.

PAR. B.501.1. The term "employee," as used in this section, includes persons on permanent, working test and provisional status but does not include persons on any type of temporary appointment. (08-27-80/10-01-80)

PAR. B.501.2. The term "ordered military duty," as used in this section means: (08-27-80/10-01-80)

a. Any military duty performed in the service of the State or of the United States, including but not limited to, attendance at any service school or schools conducted by the armed forces of the United States by an employee as a voluntary member of any force of the organized militia or any reserve force or reserve component of the armed forces of the United States pursuant to orders issued by the competent State or federal authority, without the consent of the employee. (08-27-80/10-01-80)

b. Such duty, performed for a period or periods not exceeding a total of thirty (30) days in one calendar year, shall be deemed "ordered military duty" regardless of whether such orders are or may be issued with the consent of the employee. (08-27-80/10-01-80)

PAR. B.502. Leave of Absence for Ordered Military Duty. An employee shall be entitled to be absent from work and shall be deemed to have a leave of absence while engaged in the performance of ordered military duty and while going to and returning from such duty. (09-23-87/11-12-87)

PAR. B.503. Pay for Eighteen (18) Workdays; Exceptions.

PAR. B.503.1. An employee ordered to military duty without personal consent shall be paid the salary or other compensation as such employee while engaged in the performance of such duty, and while going to and

September 14, 1989 (Rev.)

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tion to determine physical or other fitness for service in the armed forces of the United States, may, upon specific request of the employee, be charged against accrued annual leave. An employee who does not desire to use accrued annual leave for this purpose shall be granted a leave of absence without pay for the period of absence as provided by law. (09-23-87/11-12-87)

Authority O.C.G.A. 38-2-279.

SECTION B.600. COURT LEAVE.

PAR. B.601. Leave to Serve as Juror or Witness. An employee on permanent, working test or provisional status shall be entitled to leave of absence from duties, without loss of pay or time and without effect on any report of performance, on all days during which the employee shall be subpoenaed to serve as a juror or witness or for other proceedings for which an employee is subpoenaed or summoned to appear by any federal, state or local court. The time allowed for court leave shall include the time that the employee's presence is actually required by the court, plus such additional time as is reasonably necessary in the opinion of the appointing authority for the employee to prepare for or recuperate from the court duty. (5-31-89/6-28-89)

PAR. B.602. Exception. Notwithstanding the provisions of Par. B.601, an employee shall not be granted court leave for any case or proceeding in which the employee is litigant, defendant or other principal party, or if the employee has any other personal or familial interest in the proceeding. (09-23-87/11-12-87)

PAR. B.603. Documentation. The appointing authority shall require the employee to submit a copy of the subpoena, summons for jury duty or other court order or process as a prerequisite for approval of court leave. Appropriate certification of service may also be required. (5-31-89/6-28-89)

PAR. B.604. Penalties Prohibited. An employee shall not be discharged, disciplined, or otherwise penalized because the employee is absent from employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the employee's attendance at the judicial proceeding. No person shall threaten to take or communicate an intent to take any action prohibited by law or this paragraph. This paragraph shall not apply to an employee who is charged with a crime, nor shall it prohibit the appointing authority from requiring an em-

Chapter 478-1

Rules of the State Personnel Board

to the application of this paragraph. (05-24-90/05-30-90)

PAR. B.1004. Requests to Observe Other Religious Holidays. An employee, upon request to the appointing authority at least seven (7) days in advance, shall be given priority consideration for time away from work for observance of religious holidays not provided for in Par. B.1001. Any paid time for such religious holiday observance shall be charged to compensatory time or accrued annual leave available to the employee at the time of the holiday observance. No employee may claim priority consideration for more than three (3) workdays in each calendar year. A request by an employee for time away from work to observe a religious holiday shall not be denied unless: (1) the employee has inadequate compensatory time or accrued annual leave to cover such period of absence; or (2) the duties performed by the employee are urgently required and the employee, in the judgment of the appointing authority, is the only person available who can perform the duties. (09-23-87/11-12-87)

Authority O.C.G.A. Secs. 45-20-3, 45-20-4, 1-4-1, 21-2-404, 31-29-1, 38-2-279, 45-20-6, 45-20-31.



STATE MERIT SYSTEM
OF PERSONNEL ADMINISTRATION

200 Piedmont Avenue • Atlanta, Georgia 30334

Charles E. Storm, Commissioner

September 25, 1985

M E M O R A N D U M

TO: Department Heads

FROM: Charles E. Storm, Commissioner

SUBJECT: Compliance with Act 761 (1985 General Session)

In compliance with Act 761 of the 1985 General Session, I am supplying the average sick and annual leave taken and forfeited by classified employees.

As required by O.C.G.A. 47-2-91(f), the personnel records and leave balances of classified employees who, as of June 30, 1985, had ten or more years of continuous service, have been reviewed. The average numbers of sick and annual leave days taken per year by these employees are as follows:

Sick Leave	9.39 days per year
Annual Leave	14.09 days per year

Act 761 requires that these computations be deducted from the maximum number of days of sick and annual leave which may be accumulated in one year under rules and regulations of the State Personnel Board. Once the two figures have been reduced, the resulting figures are added together for determining the forfeited annual and sick leave for each year of membership services in certain situations. The forfeited sick and annual leave calculation is as follows:

	Sick	Annual	Total
	Days		
Maximum	15.00	21.00	36.00
Av. Taken	<u>9.39</u>	<u>14.09</u>	<u>23.48</u>
Forfeited	5.61	6.91	12.52

The forfeited leave computation of 12.5 days (rounded to the nearest tenth) is being furnished to each employer to be used, when appropriate, when certifying to the Employees Retirement System in accordance with Act 761.

CES:BJB/cw

cc: Personnel Director

An Equal Opportunity Employer

APPROVAL REQUEST FORM

DATE OF REQUEST:

STAFF ATTORNEY/EMPLOYEE:

PURPOSE:

DATES OF REQUESTED TRAVEL OR CLE:

LOCATION:

REGISTRATION FEE:

APPROXIMATE OTHER ASSOCIATED COSTS:

OF CLE HOURS (If applicable):

NOTE: The Court of Appeals only pays for the minimum 12 hours of CLE per year. Please document that requested CLE is within the limits set by the Court.

I hereby certify the above request (if for CLE) is within the yearly minimum of twelve hours per year paid for by the Court of Appeals.

Staff Attorney/Employee

Approval

Court of Appeals of the State of Georgia

ATLANTA, FEBRUARY 23, 1994

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

RE: ORDER REGARDING NEWS COVERAGE AND REGULATION OF
MOVEMENT AND PLACEMENT OF PERSONS AND AUDIO AND
VISUAL RECORDING AND TRANSMITTING EQUIPMENT IN
THE COURTROOM AND ANY RESERVED NEWS MEDIA AREAS

Pursuant and subject to the provisions of the order of the Court of Appeals of Georgia, all Courtroom proceedings may be photographed, recorded, and broadcast by news media personnel, subject to the following procedures, rules and limitations:

- (1) Any person wishing to photograph, record and broadcast any such court proceeding shall submit to the Court a timely written request to do so on the attached form. Said submission to be made no later than one week before the scheduled oral argument date.
- (2) With regard to the conduct of the news media personnel and the use of photography, recording, and broadcast equipment, it is hereby Ordered:
 - (a) Not more than one "pooled" stationary electronic television camera, to be located as designated by the Court to the side or rear of the Courtroom, and to be attended and operated by not more than one person, shall be permitted in the Courtroom during Court proceedings;
 - (b) Not more than one still photographer, to be located as designated by the Court to the side or the rear of the Courtroom and utilizing not more than two still (non-motorized) cameras, shall be permitted in the Courtroom during Court proceedings;
 - (c) Not more than one audio system for aural broadcast purposes shall be permitted in any court proceedings; audio pickup for all media purposes shall be accomplished from existing audio systems present in the Court facility; provided, however, if no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be permitted but said equipment shall be unobtrusive and shall be located in places

designated in advance of any proceeding by the Court with any cost thereto being borne by the news media;

- (d) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the Court to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding;
- (e) The placement of the television camera equipment, as well as the seating locations for all media personnel, shall be assigned and approved by the Court prior to the commencement of the Court proceedings; all such equipment shall be positioned in such assigned places prior to the commencement of such proceedings and shall not be moved or removed while such proceedings are in session;
- (f) Only existing light shall be used for photography and no artificial or supplemental lighting devices of any type (including flashbulbs) shall be employed for either still or motion photography;
- (g) Those media personnel who are permitted to photograph, record and broadcast the court proceedings shall not move about the courtroom during the proceedings, and shall at all times during such proceedings remain in the areas assigned and approved by the Court;
- (h) No motor drives nor battery-operated film advances for still photography shall be used during court proceedings;
- (i) Any electronic or radio transmitted communications between the camera operator and any media room, or any other place, shall be inaudible;
- (j) Any audio or video recording systems or equipment in the courtroom shall be actively attended at all times;
- (k) News media personnel employing electronic television camera equipment in the courtroom shall preserve for and shall provide the Court with a VCR video tape (with sound) of all Court proceedings broadcast live, video taped and broadcast as a part of regular news coverage, or recorded for the purpose of specific future broadcast. Said regulations shall apply to each news media organization requesting permission to employ any form of television equipment;

- (1) News media personnel employing audio recording equipment in the courtroom shall preserve for and shall provide the Court with an audio cassette tape of all Court proceedings broadcast live, recorded and broadcast as a part of regular news coverage, or recorded for the purpose of specific future broadcast. Said regulations shall apply to each news media organization requesting permission to employ any form of audio recording equipment;
 - (m) The costs of the necessary electrical wiring or service, audio equipment or tie-in with the courtroom's system, and costs for setting up monitors and video recording devices shall be borne altogether by the electronic media on a basis to be determined by them;
 - (n) No media will be allowed to enter or leave the courtroom until the end of a session, a declared recess or until released by the Court.
- (3) The Court shall retain the exclusive authority to delimit, restrict, prohibit, and terminate the photographing, recording, and broadcasting of any and all courtroom proceedings. Such action may and will be taken by the Court at any time the Court determines;
 - (a) That the provisions of this Order have been or are being violated or circumvented; or
 - (b) That the activities of the news media are detracting from the dignity of the court proceedings; or
 - (c) That the ends of justice are not being served or the rights of the parties are being abridged.
 - (4) If at any time, the Court decides that any of the provisions of this Order should be waived, modified or amended, the Court will waive, modify and amend provisions of the Order so long as such waivers, modifications and amendments do not conflict with Canon 3 of the Code of Judicial Conduct.
 - (5) Notwithstanding any of the foregoing, it is and will remain the sole responsibility of this Court to insure that all its proceedings are conducted with the due dignity and decorum required of all judicial proceedings. At any time any activity or conduct occurs which adversely affects the administration of justice, the Court shall and does retain the inherent authority to exercise its discretion to restrict media coverage of such proceedings in any way necessary to preserve these ends.

NEWS MEDIA COORDINATOR

The Honorable William L. Martin, III, Clerk and Court Administrator, Court of Appeals of Georgia, is hereby designated as News Media Coordinator for the proceedings

relating to this order. The News Media Coordinator shall serve as the liaison between the Court and the media and shall be responsible for insuring compliance with the provision of this order relative to media coverage.

Due to the limitations of space and the possible number of media organizations requesting coverage privileges, the News Media Coordinator is hereby authorized by the Court, as he deems appropriate, to limit access in the courtroom.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

FEB 23 1994

*I certify that the above is a true extract
from the minutes of the Court of Appeals of
Georgia.*

*Witness my signature and the seal of said
court hereto affixed the day and year last
above written.*

Clerk.

William L. Meent, III

IN THE COURT OF APPEALS
STATE OF GEORGIA

REQUEST TO INSTALL AUDIO AND VISUAL RECORDING
AND TRANSMITTING EQUIPMENT PURSUANT TO
RULES AND GUIDELINES FOR ELECTRONIC AND PHOTOGRAPHIC
NEWS COVERAGE OF ORAL ARGUMENTS

Pursuant to the Order of the Court of Appeals of Georgia dated February 23, 1994, and filed in the Court regarding News Coverage and Regulation of movement and placement of persons and audio and visual recording and transmitting equipment in the Courtroom and any reserved news media areas, the undersigned hereby request permission to install equipment in the Court of Appeals Courtroom in order to record, photograph, broadcast and/or televise all or portions of the proceedings in following case: _____

Case Number: _____

Consistent with the provisions of the rules and guidelines aforementioned, the undersigned desires to install the following described equipment: _____

The proceedings the undersigned desires to record, photograph, broadcast, and/or televise will commence on the following date: _____ Subject to direction from the Court, or the News Media Coordinator regarding possible coverage, the undersigned wishes to install this equipment in the courtroom on _____. The personnel who will be responsible for the installation and operation of this equipment during its use are: _____

The undersigned hereby certifies that the equipment to be installed and the location and operation of such equipment will be in conformity with the rules and guidelines issued by this Court pursuant the aforementioned order.

This _____ day of _____, 19____.

Name

Title

Name of Company or Firm

Address

City

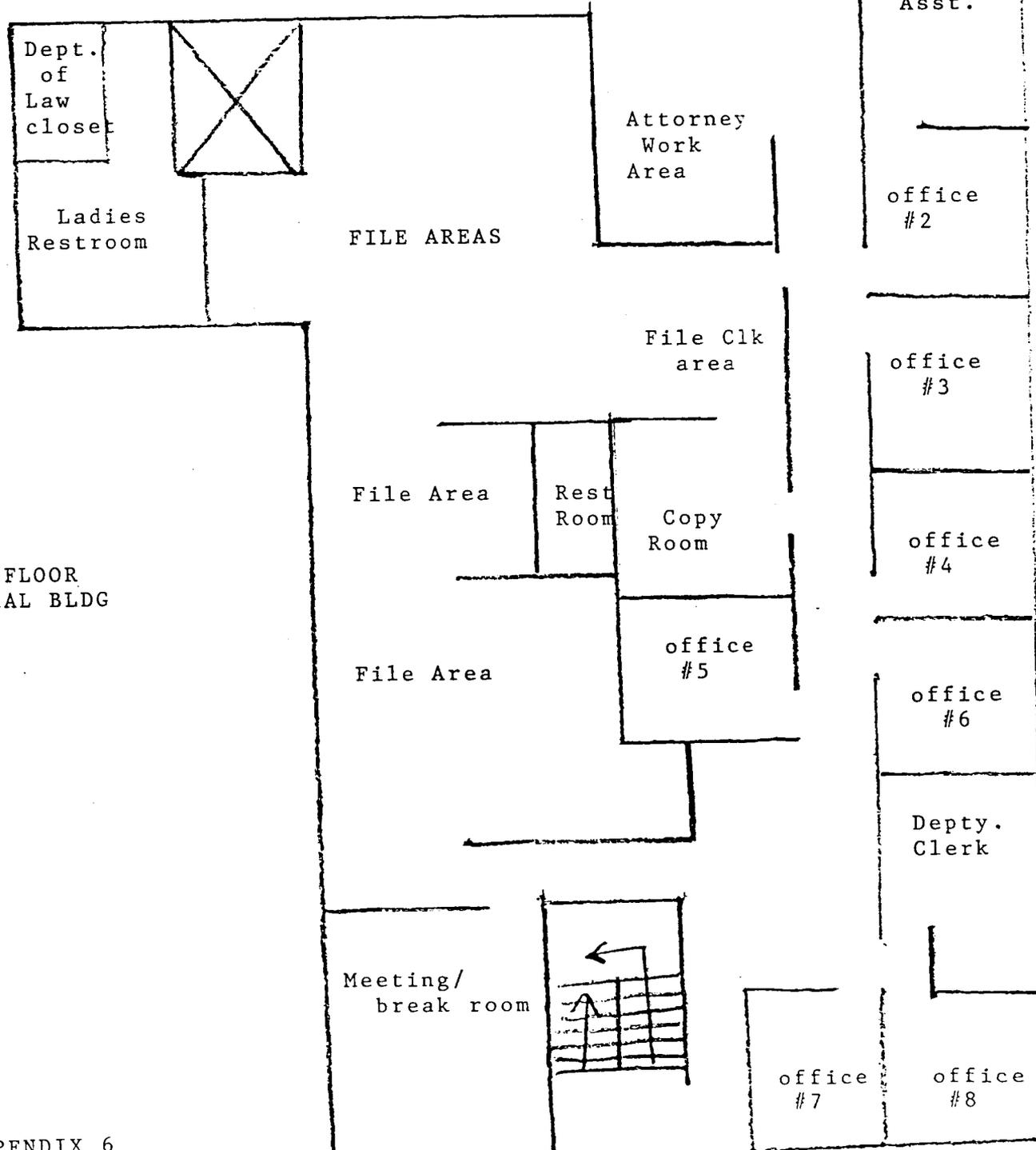
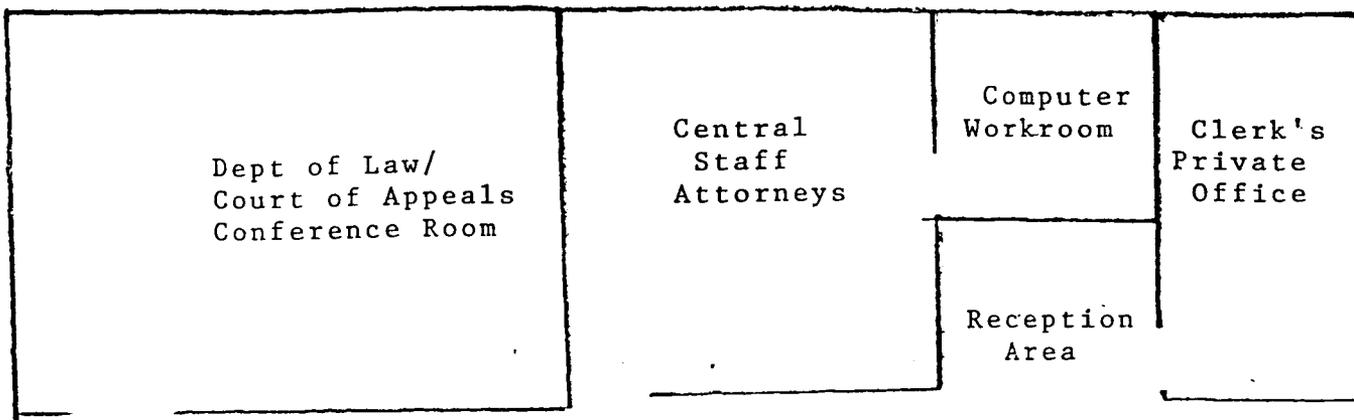
State

Zip

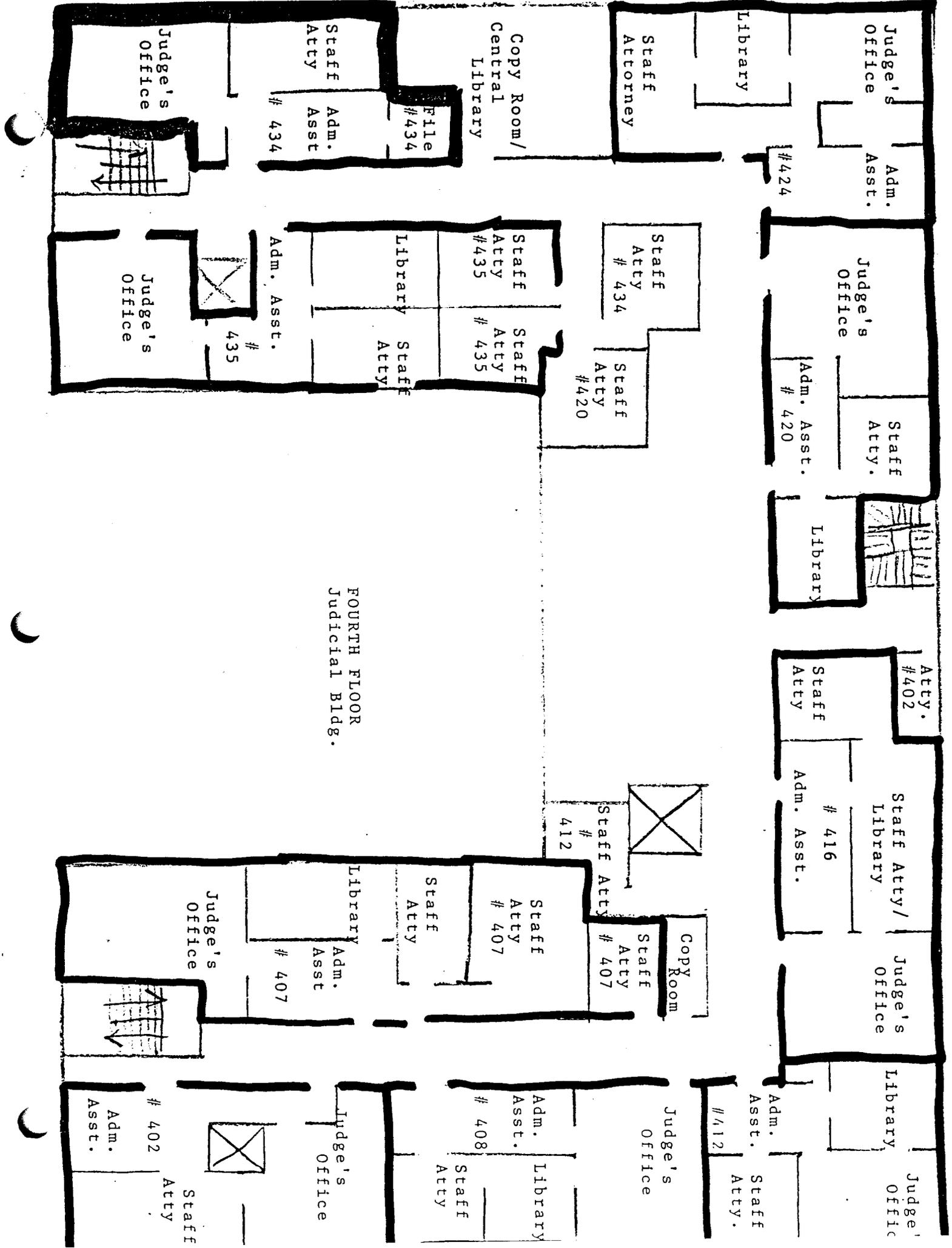
Phone Number

Approved: _____

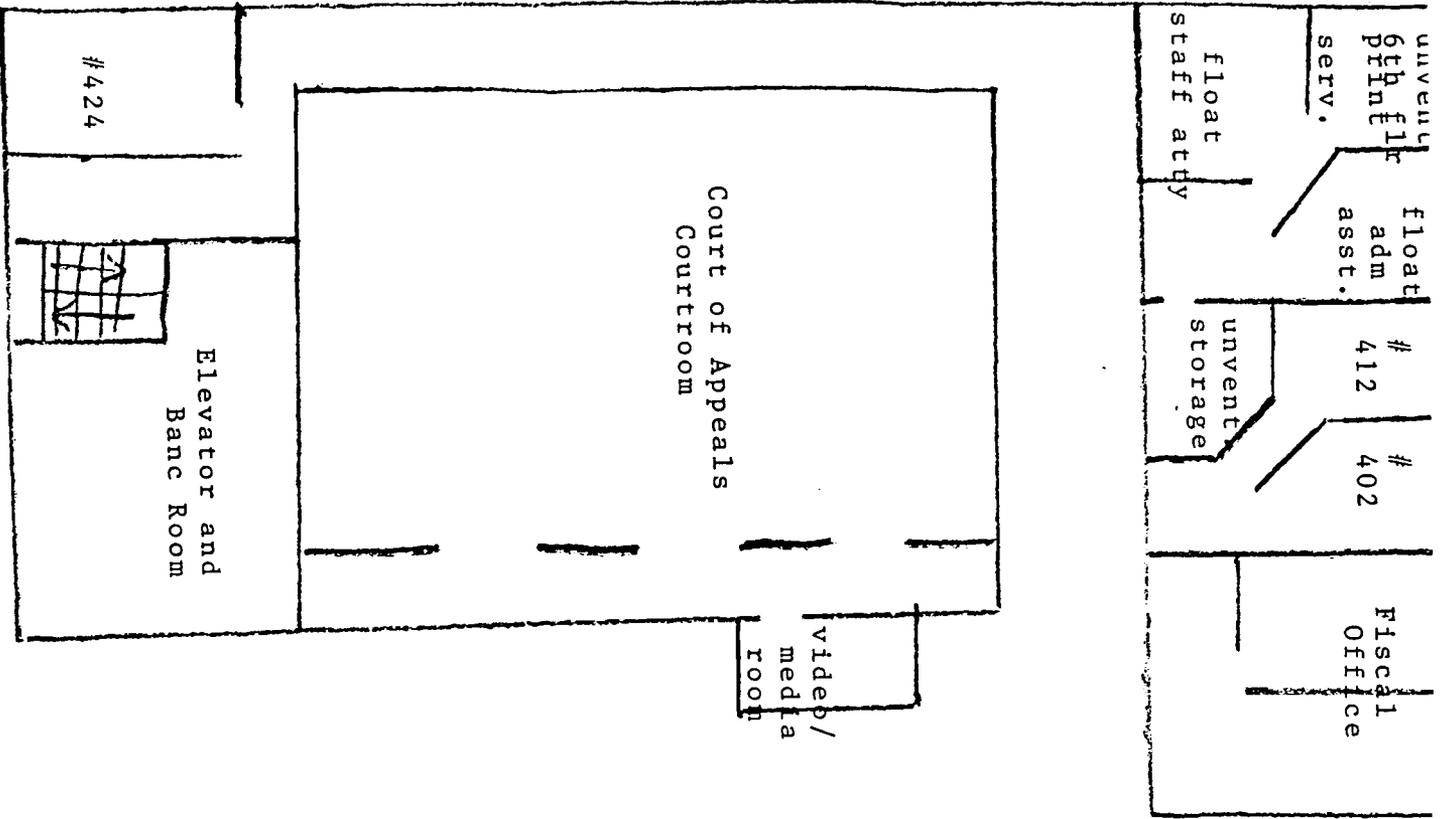
William L. Martin, III
Clerk and Court Administrator
News Media Coordinator
Court of Appeals of Georgia



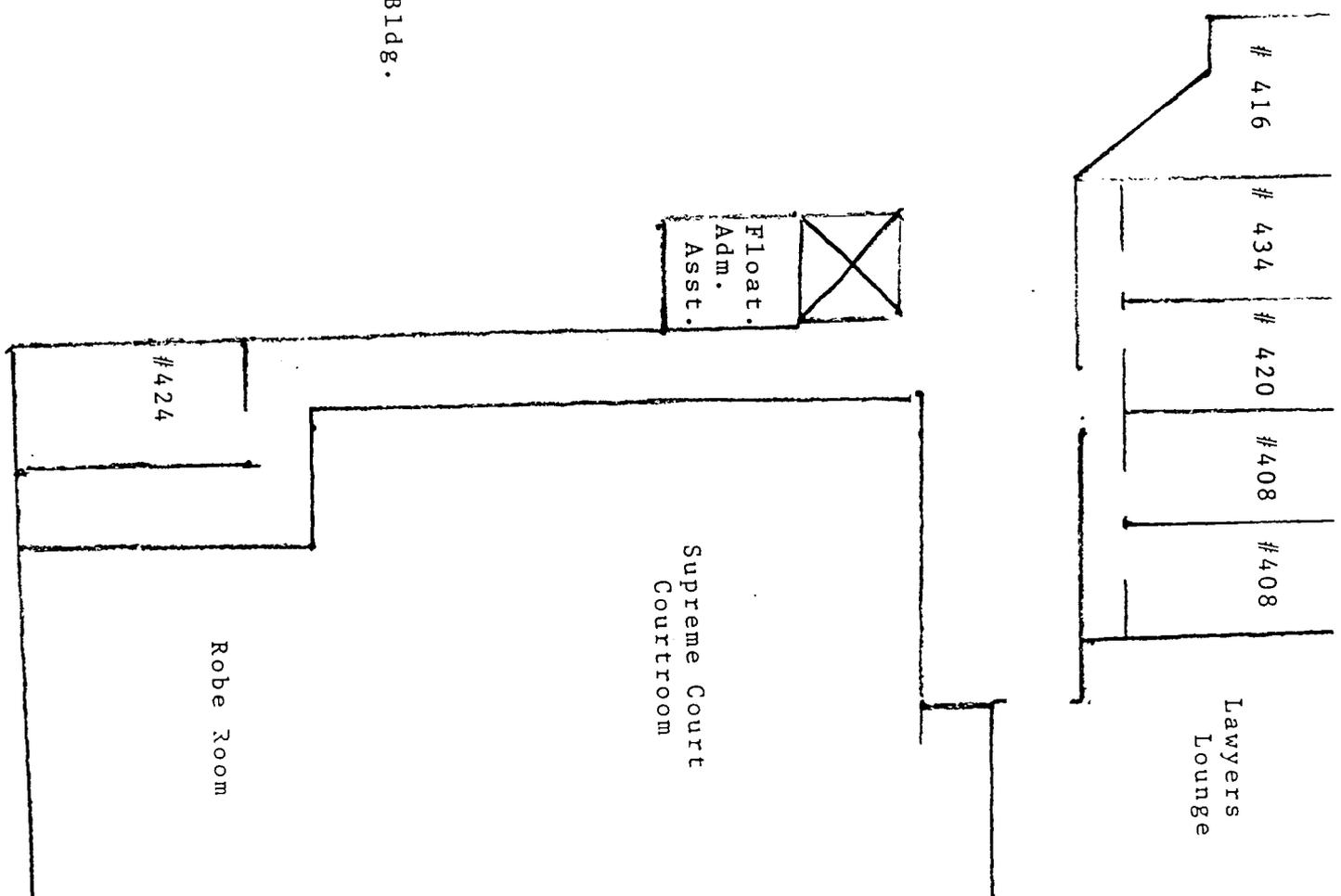
THIRD FLOOR
JUDICIAL BLDG



FOURTH FLOOR
Judicial Bldg.



SIXTH FLOOR
Judicial Bldg.



**Policy Regarding Publication of Decisions
Adopted November 7, 1994**

1. Criteria for Publication

The following criteria shall be considered by panels in determining whether decisions will be designated for publication in the Georgia Appeals Reports:

(a) whether it establishes a new rule of law, or alters or modifies an existing rule of law, or applies an established rule of law to a novel fact situation;

(b) whether it creates or resolves a conflict of authority between panels within the court;

(c) whether it is accompanied by a concurring opinion;

(e) whether it reverses the decision below, unless:

(i) the reversal is caused by an intervening change in law or fact, or

(ii) the reversal is a remand without further comment to the trial of a case reversed or remanded by the Supreme Court;

(f) whether it is a Whole Court opinion, in which case it shall be published.

2. Designation for publication.

There shall be a presumption in favor of publication. An opinion shall be published if a majority of the panel deciding the case designates the opinion for publication after consideration of the foregoing criteria. Provided, however, that the author of any opinion, whether a majority opinion, a concurring opinion, or a dissenting opinion, may designate that such opinion be published, and in the event of such designation, the Clerk shall cause such opinion to be published.

SEXUAL HARASSMENT POLICY

A Model for Georgia Courts

**Prepared by the
Supreme Court Committee for Gender Equality**

(Source: Minutes, June 1995 Banc Meeting)

Appendix 8

SEXUAL HARASSMENT POLICY
A Model for Georgia Courts

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SEXUAL HARASSMENT

I. PURPOSE

Court employees are entitled to work in an environment free from sexual harassment. The purpose of this policy is to achieve a workplace free from sexual harassment by establishing a procedure for submitting complaints regarding sexual harassment and for the investigation and resolution of those complaints.

II. SCOPE

This policy shall apply to all judicial and non-judicial employees. This policy governs the process for the filing, investigation, and resolution of a complaint. The policy does not govern the grievance and appeal procedure. This policy does not govern the discipline procedure.

III. SEXUAL HARASSMENT DEFINED

Discrimination or harassment based on race, color, religion, sex, age, disability, or national origin will not be tolerated in the courts. Sexual harassment is of particular concern to court management, and any form of sexual harassment will not be permitted. Sexual harassment is defined as "any sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, which is unwelcome." It occurs when:

- (1) Sexual favors are demanded "as a term or condition of employment." Example: A supervisor demands sexual favors from a subordinate and threatens with termination.
- (2) Sexual demands, once made, are refused and the employee faces an adverse consequence for that refusal. Example: An employee rejects the sexual advance of the supervisor, is demoted and later fired for the refusal.
- (3) The acts of verbal abuse, physical touching, sexual demands or other conduct of a sexual nature are so pervasive and persistent as to have "the effect of unreasonably interfering with an individual's work performance or creating an offensive and intimidating working environment" for an employee. Example: Persons tease and insult others in the workplace with obscene jokes, sexual innuendoes or similar conduct designed to embarrass and offend.

Sexual harassment, subtle or otherwise, shall not be tolerated. Voluntary compliance with the policy and procedure outlined below will increase professionalism and create a healthy environment for all. Malicious or frivolous complaints of sexual harassment shall result in corrective or disciplinary action against the accuser.

2. The person selected as designated person shall display through interest, education, and experience the ability to mediate and negotiate the settlement of disputes among employees. The duties of the designated person shall be added to the job description of the person selected.
3. The Executive Director, in consultation with the Executive Director of the Institute of Continuing Judicial Education, shall develop a program for the initial and continuing education of designated persons in the skills necessary for the successful resolution of complaints of sexual harassment and in the techniques of witness interviewing.

B. Informal Process for Submitting a Complaint of Sexual Harassment Against a Court Employee

1. An employee who is the victim of sexual harassment should inform the harasser that the behavior is unwelcome or submit a complaint to a designated person.
 - a. Submitting the complaint to the designated person for the district in which the victim is employed is preferred. A complaint may be submitted to any other designated person. The designated person for the district shall provide to employees the names, addresses, and telephone numbers of all designated persons.
2. The designated person shall receive and investigate informal complaints of sexual harassment, facilitate communication between the parties, and resolve the complaint.

C. Formal Process for Submitting a Complaint of Sexual Harassment Against a Court Employee

1. A formal complaint shall be written. Upon request the designated person shall assist the complainant in submitting a written complaint. A formal complaint should be submitted if:
 - a. the informal process does not resolve the complaint
 - b. the complaint is a second complaint against the same harasser after the harasser had been informed that the behavior was unwelcome, whether or not submitted by the same complainant; or
 - c. in the discretion of the designated person or the complainant, the conduct complained of is egregious. In determining the seriousness of the conduct the designated person shall consider but is not bound by the request of the complainant.

7. At the conclusion of the investigation and determination the designated person of the district shall impose discipline in accordance with the applicable local policies and procedures regarding discipline.
 8. Either party may submit a grievance regarding the findings of the report by submitting the grievance to the Judicial Council of Georgia. Only the person disciplined may submit a grievance regarding such discipline.
- D. Process for Submitting a Complaint of Sexual Harassment Against a Person not Employed by the Courts.
1. The process for submitting a complaint against a person who is not an employee of the courts is the same as the process for a complaint against a judge with the exception that the three judges on the panel be from the same Administrative Judicial District.
 2. The designated person and, upon referral, the court administrator shall use all reasonable means to resolve the complaint, including referring the complaint to the employer of the harasser or to the regulatory agency to which the harasser is subject.
- E. Informal Process for Submitting a Complaint of Sexual Harassment Against a Judge.
1. An employee who is the victim of sexual harassment should inform the harasser that the behavior is unwelcome or should submit a complaint to a designated person.
 - a. Submitting the complaint to the designated person for the circuit in which the victim is employed is preferred. A complaint may be submitted to any other designated person.
 2. The designated person shall receive informal complaints of sexual harassment and inform the chief judge of the existence of the complaint. If the chief judge is the alleged harasser or if the alleged harasser is the judge of a single judge circuit, the designated person shall notify the Director of the Administrative Office of the Courts or designee. In conjunction with the chief judge or the administrative judge, the designated person shall facilitate communication between the parties and resolve the complaint.
- F. Formal Process for Submitting a Complaint of Sexual Harassment Against a Judge.
1. A formal complaint shall be written. Upon request the designated person shall assist the complainant in submitting a written complaint. A formal complaint should be submitted if:

The designated person should not talk with witnesses identified by either party unless necessary. The designated person may talk with the parties jointly.

2. **Formal Process re Sections V.C. and V.F. —** The investigation by the designated person of the district or the three member panel is formal and shall include an interview of the parties and any witnesses identified by the parties. Other witnesses may be called by the official or body conducting the investigation. In order to provide a recommendation regarding discipline, the official or body shall consider discipline imposed in other cases involving similar circumstances.

H. Investigative Panel

1. The investigative panel selected by the designated person of the district shall consist of three members from among the designated persons. No designated person involved in the complaint under investigation may serve on the panel. No designated person supervised directly or indirectly by the designated person of the district may serve on the panel. The three member panel selected by the Judicial Council shall be chosen from its members and/or staff of the Administrative Office of the Courts. The panel shall not be comprised exclusively of one sex. The members of the panel shall select a chair from among themselves.

I. Records.

1. All written complaints, notices, correspondence, reports, and other documents regarding a formal complaint of sexual harassment shall be maintained in a file by the Executive Director of the Office of Gender Equality. The file shall be considered a private record of personnel matters involving personnel policy and procedures.
2. All records of complaints found to be without merit shall be destroyed. Provided, however, that records of complaints found to be without merit but involving the complainant shall not be destroyed but shall be retained as part of the disciplinary file in that action.
3. Records regarding discipline imposed as a result of a complaint of sexual harassment or violation of this policy shall be retained in the Office of Gender Equality.

GUIDELINES FOR JUDGMENT LINES

I.

There are two aspects of a judgment line which should be considered in every case. The first is the actual disposition of the case. The body of the opinion should be studied carefully before formulating the judgment line. The following are the more frequently occurring disposition lines:

(a) Judgment(s) affirmed. Be careful to ascertain whether there are actually multiple judgments before using the plural. Also, don't automatically use the singular every time. Generally, a single order awarding relief in favor of one party or the other would call for the singular. The most frequent use of the plural will occur when the court affirms the grant of one side's motion for summary judgment and also affirms the denial of the cross-appeal. However, there are other variations and again the case must be looked at carefully.

(b) Judgment affirmed in part and reversed in part. In using this disposition line, it is important to remember that you are dealing only with the judgment of the trial court and not its rulings or analysis. In other words, if you are using the "right for any reason rule," it would simply be "judgment affirmed" although the body of the opinion would have rejected the trial court's analysis. A common correct use of this judgment line would be where the court affirms the grant of a motion for directed verdict on liability in favor of one party, but reverses the damage

award. Another common example would be where a compensatory damage award is affirmed, but a punitive damage award is reversed. A permissible variation in the last example would be "judgment affirmed in part and vacated in part." It is also important to bear in mind that the judgment line needs to be accurate, but not necessarily fully descriptive. One needs to read the body of the opinion with the judgment line. If you try to put too much explanation into the actual judgment line, it becomes unwieldy.

(c) Judgment affirmed with direction. This is used when the court affirms fully a part of a judgment, but directs the trial court to amend it in some way. A good example is where attorney's fees were improperly awarded. The court would affirm the judgment in favor of the winning party with direction that the attorney's fees award be vacated. Although you will see that some judges still will "affirm on condition," it is better to give direction and, thus, finality. This would also commonly be used when the court is affirming the judgment in favor of the appellee and adding a penalty or statutory damages.

(d) Judgment reversed and case remanded [with direction]. This will be used where the opinion directs specific future proceedings. Although, technically, a reversal of a judgment which will result in a new trial could carry this judgment line, this form is more usually used where the court finds the judgment erroneous and remands the case for the trial court to enter an

order not inconsistent with the opinion. There are several variations of this such as "judgment vacated and case remanded." Please note that the most common error appearing in the opinions of both courts is the following: Judgment reversed and remanded. The judgment is never "remanded," only the case.

(e) Judgment of conviction affirmed, sentence reversed (or vacated). Of course, some judges still use judgment affirmed in part and reversed in part for the conviction/sentence scenario. I think it is better to separate the two in the judgment line.

(f) Appeal dismissed. This is usually self-explanatory and most frequently occurs

- (1) when there was a direct appeal without interlocutory or discretionary procedures being followed,
- (2) the notice of appeal was untimely or
- (3) the case has become moot.

The above list is not all inclusive and there are many permissible variations. It is important to analyze the opinion in each case before crafting the judgment line.

II.

After the disposition part of the judgment line has been formulated, you need to indicate the votes of judges:

(a) Judges who fully concur will be shown first by seniority. As an example, if Presiding Judge Birdsong writes an opinion in which his panel concurs, it would be: Judgment affirmed. Johnson and Smith, JJ., concur.

(b) After full concurrences would be any judge who writes and concurs and also concurs specially. The reason this one is next is that the "full concurrence" gives precedential value to the opinion notwithstanding the special concurrence portion.

(c) Next would come judges who concur in judgment only. In this connection, in a multi-division opinion, judges should be encouraged to rob the opinion of precedential value only to the extent necessary. In other words, if there is only one division of an opinion in which a judge cannot join, it should be specified as follows: Andrews, J., concurs in Divisions 1, 2, 4 and 5 and in the judgment. It is better to state it positively rather than stating that the judge "concur in the judgment only as to Division 3."

(d) Next will follow the judges who concur in part and dissent in part. This would be only with a written opinion and the

opinions must be carefully analyzed to be sure that the judge is really dissenting in part. A frequent misuse of this term occurs when a judge agrees with the bottom line, but disagrees with the reasoning. That is not a concur in part and dissent in part. If a judge agrees with the result and what is going to happen to the case by virtue of that result, he or she does not dissent in part. Rather, such an opinion is probably a special concurrence.

(e) The final thing on a judgment line would be judges who are disqualified or are not participating. It is important to show this in a panel case as well as a whole court case. For example, if Judge Johnson is disqualified on a case decided by his current panel, an opinion written by Presiding Judge Birdsong would carry the following judgment line: Judgment affirmed. Smith and Ruffin, JJ., concur; Johnson, J., disqualified [or not participating]. The distinction between disqualified and not participating is not a clear one. It is up to the judge to decide. If he is not clearly disqualified, but fails to participate because of appearance of impropriety, he should be shown not participating.

(f) If a judge not presently a member of the court participates in a decision, that capacity should be shown. In other words, if Senior Judge Banke participates in a case written by Presiding Judge Birdsong, the judgment line would be as follows: Judgment affirmed. Johnson, J., and Senior Appellate Court Judge Harold Banke concur, Smith, J., disqualified.

III.

It is important to realize that all of the above deals with the judgment line on the majority opinion. That judgment line does not give details as to who joins with whom or whether there is a separate dissent or concurrence. In other words, in a case where three judges write separate dissenting opinions, the judgment line will still simply list all three in order of seniority as "dissenting." The separate opinions, concurrences or dissents, show who joins with whom. In other words, if Chief Judge Beasley writes a dissent and Judges Andrews and Ruffin join her, she would state: "I am authorized to state that Judges Andrews and Ruffin join in this dissent." If a judge writes so as to concur in part and dissent in part, it is less awkward to state at the end: "I am authorized to state that Judges Andrews and Ruffin join in this opinion," rather than state that they join in "this concurrence in part and dissent in part."

There are a lot of variations to all of the above. If any judge has a question about a judgment line, he should check with Judge _____ before the opinion is taken to the clerk's office. (Source: Minutes, November 1995 banc meeting).

APPENDIX 9

GUIDELINES
FLOWER FUND
COURT OF APPEALS OF GEORGIA

I. PURPOSE

The Court of Appeals of Georgia shall create a flower fund to provide funds for an appropriate expression of sympathy, joy, congratulations or recognition of achievement on certain occasions involving Court personnel.

II. CREATION

1. The Administrator/Clerk shall invoice and collect from each Judge on the Court a minimum contribution of \$50 per year to establish a non-interest-bearing checking account to effect the purposes of the flower fund.

2. The Court may assess such other contributions to the fund, by majority vote, as the Court may deem appropriate. In no event shall the annual contribution in any one calendar year exceed \$150 per Judge.

3. Whenever the balance of the flower fund shall exceed \$500, the minimum yearly contribution shall be stayed until such time as the balance falls below \$500.

III. APPLICATION

1. The flower fund shall be used to provide flowers, or an appropriate expression of sympathy, joy, congratulations or recognition of achievement to Court personnel as follows:

a. To any Judge's family in the event of the death

of the Judge, the Judge's spouse, the Judge's child, the Judge's mother or father, or the Judge's mother-in-law or father-in-law.

b. To any Judge, Judge's spouse or Judge's child living in the Judge's home, who is hospitalized for a period of more than 24 hours.

c. To any Court personnel, other than a Judge, upon the death of such Court personnel, the death of such Court personnel's spouse, or the death of such Court personnel's child living in the home of such Court personnel.

d. To any court personnel, other than a Judge, who is hospitalized for a period of more than 48 hours.

e. To any Judge who marries.

f. To any family of any former Judge of this Court who dies or to any former Judge if such Judge's spouse predeceases the Judge.

2. The Court may, by a vote of at least six Judges, provide for such other expressions of sympathy, joy, congratulations or recognition of achievement, as the Court may deem appropriate. (Source: September 1996 Banc meeting).

IV. ADMINISTRATION

1. The Administrator/Clerk shall be responsible for administrating the flower fund to include:

a. Invoicing all Judges for the minimum annual contribution by April 30 of each year and insuring collection by June 1 of each year.

b. Invoicing all Judges for all special contributions and insuring collection of any special contribution within 30 days of such invoicing.

b. Invoicing all Judges for all special contributions and insuring collection of any special contribution within 30 days of such invoicing.

c. Balancing the flower fund account and reporting to the Banc when there has been any activity in the flower fund account, and in the event of no activity in the flower fund account, reporting to the Banc at least annually, beginning with the January 1996 Banc Meeting.

d. Sending an appropriate expression from the Court on appropriate occasions pursuant to these guidelines.

e. Doing such other things as may be reasonably required to effect the purposes of the flower fund.

2. The Administrator/Clerk and the Deputy Administrator shall be signatories on the flower fund checking account.

3. In the absence of the Administrator/Clerk or at the direction of the Administrator/Clerk, the Deputy Administrator shall be responsible for administering the flower fund.

V. COST OF EXPRESSION - NUMBER OF EXPRESSIONS

1. The amount of funds expended on any one flower fund donation or expression shall not exceed \$75.

2. The Administrator/Clerk shall send, when appropriate under the guidelines, a gift, expression or donation, the cost of which shall be determined by the local economy where the flowers are purchased or the expression or donation is made.

3. Any gift, donation or expression made by the Court shall reflect taste and thoughtfulness, and shall not be so penurious as to embarrass the Court, but shall not exceed the \$75 limit.

4. Any gift, donation or expression sent in excess of \$75 shall be authorized by a vote of five Judges on the Court.

5. No Judge on the Court, or other Court personnel, shall receive more than one expression per calendar year for hospitalization. (For example, flowers shall be sent to a Judge's spouse only once during the calendar year; flowers may be sent to each Judge's child during the year, but only one expression per child per year.)

6. Only one recognition of achievement per Court personnel may be sent per year.

VI. UNEXPENDED FLOWER FUNDS

1. The Court may, at any time, by majority vote, dissolve or discontinue the flower fund.

2. Upon such dissolution, the Administrator/Clerk or Deputy Administrator shall distribute the funds remaining in the flower fund to the Judges on the Court proportionately, based upon their contributions of unexpended funds remaining in the flower fund.

VII. AMENDMENT TO GUIDELINES

1. These guidelines shall be placed in the Court's Internal Operations Manual as an appendix to that manual so that all judges will have convenient access to these guidelines.

2. These guidelines may be amended at any time by majority vote of the Judges on this Court.

IV. POLICY

- A. 1. No employee shall engage in conduct constituting sexual harassment. Any employee determined after investigation to have engaged in conduct constituting sexual harassment shall be disciplined.
2. Supervisors who knew or should have known of incidents of sexual harassment and failed to take appropriate action in accordance with this policy shall be disciplined.
3. An employee who takes reprisals against another employee for (1) filing a complaint alleging sexual harassment or (2) for appearing as a witness for any party in a sexual harassment complaint shall be disciplined. An employee who submits a fraudulent or bad faith claim of sexual harassment shall be disciplined.
4. The process for filing complaints and for investigation and resolution of complaints shall be free from bias and intimidation.
5. Conduct occurring off duty or off court premises may constitute sexual harassment.
6. Any judicial or non-judicial employee who has reason to believe that another judicial or non-judicial employee is the victim of sexual harassment should encourage the victim to submit a complaint. In the alternative, the judicial or non-judicial employee may inform a designated person of the existence of a possible complaint.

V. PROCEDURE

A. Designated Person.

1. The judge of each court shall designate a person on the staff to receive complaints of sexual harassment as well as a person to serve in such position in the event the complaint is against the person designated to hear the complaints. The Executive Director of the Office of Gender Equality, in consultation with the court administrator for each district, shall appoint from among the employees of that district a designated person for each judicial administrative district. The Executive Director, in consultation with the Director of the Administrative Office of the Courts, shall appoint from among the employees of the Administrative Office of the Courts a designated person for that office. The names of the designated persons shall be published as part of the policy of the court, district or office from which designated.

2. The designated person shall receive formal complaints of sexual harassment and refer them to the designated person of the district of the complainant's employment or the designated person at the Administrative Office of the Courts. If the designated person of the district is the alleged harasser, the designated person shall refer the complaint to the Director of the Administrative Office of the Courts. If the complainant is employed by the Administrative Office of the Courts, the designated person shall refer the formal complaint to the three-member panel appointed by the Judicial Council. Upon referral, the designated person shall provide the alleged harasser with a copy of the written complaint.
3. The designated person of the district shall investigate the complaint and determine whether the conduct complained of occurred and whether the conduct constitutes sexual harassment. The designated person of the district shall prepare a written report of the nature of the investigation and the findings and conclusions of the investigation. The report shall be completed within twenty days of the referral from the designated person. The court administrator shall provide a copy of the report to the parties.
4. The designated person of the district may recuse himself or herself from the investigation and determination if the designated person of the district is the immediate supervisor of either party, is a personal friend or member of the immediate family of either party, is so closely involved in the matter that the impartiality of the investigation or determination may be questioned, or determines that the time required for the investigation and determination is greater than the designated person of the district can provide.
5. If the designated person of the district does not conduct the investigation and determination, the designated person of the district shall refer the matter within three days to a three member panel appointed by the designated person of the district for that purpose. The designated person of the district shall notify all parties of the referral.
6. The panel shall investigate the complaint and determine whether the conduct complained of occurred and whether the conduct constitutes sexual harassment. The panel shall prepare a written report of the nature of the investigation and the findings and conclusions of the investigation. The panel may include in the report a recommendation regarding discipline. The panel shall complete the report within twenty days of the appointment of the panel. The panel shall file the report with the designated person of the district and provide a copy to the parties. Provided, however, that this time period may be extended by the panel for a reasonable time for good cause shown.

- a. the informal process does not resolve the complaint;
 - b. the complaint is a second complaint against the same harasser after the harasser had been informed that the behavior was unwelcome, whether or not submitted by the same complainant; or
 - c. in the discretion of the designated person or the complainant, the conduct complained of is egregious. In determining the seriousness of the conduct the designated person shall consider but is not bound by the request of the complainant.
2. The designated person shall receive formal complaints of sexual harassment and refer them to the chief judge of the circuit of the complainant's employment. If the chief judge is the alleged harasser or if the alleged harasser is the judge of a single judge circuit, the designated person shall notify the Director of the Administrative Office of the Courts or designee. Upon referral, the designated person shall provide the alleged harasser and the court administrator with a copy of the written complaint.
 3. The chief judge, the administrative judge, or the Director of the Administrative Office of the Courts shall refer the complaint to the Judicial Council. The Council shall appoint a three member panel to investigate the complaint and determine whether the conduct complained of occurred and whether the conduct constitutes sexual harassment. The panel shall prepare a written report of the nature of the investigation and the findings and conclusions of the investigation. The panel may include in the report a recommendation regarding discipline. The panel shall file the report with the Council within twenty days of the appointment of the panel and shall provide a copy of the report to the parties, the chief judge, and the court administrator. Provided, however, that this time period may be extended by the panel for a reasonable time for good cause.
 4. The chief judge or the Director of the Administrative Office of the Courts shall take appropriate disciplinary action against the harasser.
 5. The judge may petition to have the complaint reviewed by the Judicial Council. The complainant may petition to have the complaint reviewed by the Judicial Qualifications Commission.

G. The Investigative Process.

1. Informal Process re Sections V.B. and V.E. -- The investigation conducted by the designated person is informal. The principal objective of the designated person is not to determine whether sexual harassment occurred in the past but rather to govern future conduct. The designated person shall first talk separately with the complainant and then with the alleged harasser.