

SUPREME COURT OF NEVADA

POLICY

Topic: Administration of the Senior Judge Program

Revised: June 2019

POLICY STATEMENT: The Supreme Court, through the Administrative Office of the Courts (AOC), shall maintain fiscal oversight and effect the formal assignment of senior justices and judges to appellate and district courts requiring supplemental judicial assistance. The program is intended to provide temporary relief during unexpected or necessary absences and to ensure timely disposition and handling of cases.

PURPOSE:

The Supreme Court, through the AOC, shall administer the Senior Judge Program (the Program) to help ensure access to timely justice in Nevada's district courts, Court of Appeals, and Supreme Court. The purpose of the Program is to handle caseloads that cannot be covered by assignment or reassignment to a sitting district judge from within the same district, to assist with caseload management and facilitate settlements by way of settlement conferences, to promote timely disposition and handling of cases.

AUTHORITY:

Article 6, Section 19 of the Nevada Constitution grants authority to the Chief Justice, as the administrative head of the Nevada court system, to "recall to active service any retired justice or judge of the court system who consents to such recall and who has not been removed or retired for cause or defeated for retention in office" and to assign senior judges to assist in other judicial districts.

Supreme Court Rule 10 (SCR 10), as amended on September 29, 2003, and May 21, 2007, governs the eligibility and commissioning of senior judges, their duties and powers, and the AOC role in assigning senior judges.

Of note, under circumstances outlined in the Nevada Constitution Article 6, Section 19, SCR 48.1, NRS 3.040, and NRS 3.220, for example, the Chief Justice is authorized to appoint a district judge to hear and decide cases outside the judicial district in which the judge was elected or following certain circumstances in a peremptory challenge. Those appointments are handled through the Supreme Court Clerk with a copy of the order provided to the AOC to aid in the payment of travel requests. For example, if a district judge sits without the requisite order of appointment, the State Court Administrator may withhold reimbursement of travel expenses.

COMMISSION:

1. Requesting to Participate in the Senior Justice and Senior Judge Program

Supreme Court Rule 10 governs the Senior Judge Program and this policy document provides the detailed guidance necessary for the administration of the Program. Retiring or retired Justices, Court of Appeals Judges, and District Judges who want to become senior justices and senior judges must complete an application and provide related information.

On initial application to be recalled and commissioned as a senior justice or judge, the applicant will request from two sitting judges within the same district in which they served, or in jurisdictions with less than two sitting judges, from two other sitting judges with knowledge of the applicant's qualifications and abilities, letters of recommendation be submitted on their behalf addressing the judge's skills and abilities to be commissioned as a senior justice or judge. The letter should be submitted directly to the Senior Judge Program Coordinator.

2. Residence Requirement

All senior justices and judges must maintain an address in the State of Nevada, and must reside in the state at least part-time.

3. Investigation of Senior Judge Applicants and Considerations for Appointment/Reappointment

As prescribed in SCR 10, the Administrative Office of the Courts shall perform an investigation into the background and qualifications of senior judge applicants at the request of the Supreme Court. This investigation shall include, at a minimum, a criminal background check and disciplinary history through the Nevada State Bar, Judicial Discipline Commission and state authorities.

A summary of administrative materials will be provided to the Supreme Court for consideration in the appointment or reappointment process. Examples of information that will be included for their consideration:

- For initial appointment, number of hours a senior justice or judge was used by applicant for each of the last 3 years.
- For re-appointment, the number of assignments offered and accepted by applicant for each of last 3 fiscal years.
- Compliance with time and travel claim submission guidelines noted in this policy.
- Compliance with submission of annual financial disclosures.
- Any complaints received by the Justice Liaison or Program Coordinator.
- Letters from the administrative judges and/or the judges for whom the senior judge worked during the year. The letters will include an evaluation of the performance of the senior judge and, when appropriate, include any suggestions for training.
- Completion of any mandatory training as may be determined by the Supreme Court.

4. Terms of Appointment

Senior justices and judges meeting the criteria required by the Supreme Court will be appointed for a one-year term beginning July 1 of each year. The appointment may be extended for additional one-year terms at the discretion of the Supreme Court. The Senior Judge Program Coordinator will contact all currently commissioned Senior Justices and Judges via email regarding their desire to be re-commissioned in

March of each year. The Coordinator will include an Application for Reappointment as a Senior Justice or Judge in the email.

TRAINING AND EDUCATION:

At any time the Supreme Court may require mandatory attendance at educational seminars for the senior justices and judges. The senior justices and judges will be paid their costs for attendance at any such training.

- Senior Justices and Judges may attend CLE and AOC sponsored conferences with prior approval from the Justice Liaison. Senior justices and judges approved to attend training will receive reimbursement from the senior judge program. When planning to attend education programs, please prepare and submit to the Senior Judge Program Coordinator the training request form found online (in advance of the CLE) to receive prior approval of the Justice Liaison. The Program Coordinator will notify the judge of approval. After attending, the judge will need to submit a travel claim for reimbursement in accordance with the travel policy. Seminars and courses offered outside the State of Nevada must also be approved in advance.

PROCEDURE FOR ASSIGNMENT:

1. Types of Assignment

Senior judges may serve under one of the following types of assignments:

Case assignment: Judge is assigned to a specific case or matter within a specific case, duration notwithstanding.

Duration assignment: Judge is assigned for a specific period of time to a particular district and/or department under the supervision of the Chief Judge or his designee (in courts with a Chief Judge), or the Presiding Judge.

Specialty Court assignment: Judge is assigned to sit on a specialty court for a specific period of time.

Settlement assignment: Judge is assigned to evaluate or settle a specific case or is assigned for a period of time under the direction of the Chief Judge or requesting judge to mediate cases. Unusual requests (e.g., extended time) should have additional review and approval by Justice Liaison.

2. Reasons for Assignment and Priorities

Assignments will be considered and approved as available resources and funding may allow. Unless the Chief Justice otherwise orders, assignments are prioritized as follows:

- A. Judicial illness or death (including illness or death of a family member)
- B. Judicial retirement creating the necessity for an interim judge
- C. District-wide recusals or disqualifications in emergency matters, especially those involving the custody or safe-keeping of children
- D. Specialty court assignments

- E. Mandatory judicial education (including new judges training and judicial education required for Continuing Legal Education credits (12 credits per year)) or for Committee assignments made by the Supreme Court
- F. Peremptory challenges (in rural districts only)
- G. Recusals and disqualifications
- H. Settlement conferences or case conferences
- I. Matters which must be heard or resolved within specific statutory time-frames, including 5-year rule cases
- J. Congested court dockets and/or caseload management
- K. Judicial vacation, non-mandatory judicial education, or other personal time, limited to 15 days per year unless additional time is approved by the Chief Justice due to extraordinary circumstances. Attendance at committees not under the direction of the Supreme Court shall be considered personal time.

3. Request for Assignment of a Senior Judge

If a district judge becomes unavailable for a case or calendar session(s) due to any of the reasons listed in Section 2 above, the requesting district court should make every attempt to have that case reassigned to another judge in that same district. If assignment to another judge in the district is not feasible, that district may request senior judge services from the State Court Administrator. The following guidelines govern requests for judicial assistance by a district:

- A. The request must be made in writing utilizing the attached form prescribed by the AOC (the "Request for Assignment" or RFA). Requests for Assignments should be submitted at least two weeks in advance of the requested assignment date unless circumstances otherwise require. Judges may not be available on shorter notice.
- B. The request will be directed to the AOC Senior Judge Program Coordinator via facsimile or e-mail or other method designated by the Senior Judge Program Coordinator.
- C. The Request for Assignment must be signed by the Chief Judge of the district, or his designee, or the division (civil, criminal, or family) presiding judge or by the requesting judge in districts in which there is no chief or presiding judge.
- D. The reason for the request indicated under Section #2 above shall be clearly articulated.
- E. If applicable, the specific dates and locations the senior judge is needed must be specified.
- F. The type of calendar or cases that will be assigned to the senior judge must be specified.
- G. The amount of time the assigned judge is being requested to serve (i.e., half-time, full-time) and the types of assignment requested should be indicated.
- H. In requests for a senior judge for settlement purposes, the court or the parties may request the assignment of a specific senior judge or judges, although this request is not a guarantee that the assignment will be made.

To ensure proper wording of the Memorandum of Temporary Assignment, and as a courtesy to the assigned judge, copies of any back-up documentation should also be submitted to the AOC with the Request for Assignment (i.e., peremptory challenges, disqualifications, or recusals).

4. Assignment of a Senior Judge

Upon receipt of the Request for Assignment, the State Court Administrator, or designee, will make a determination of available funds, availability of other judges within the district, documented need, and availability and willingness of judges to serve as requested. If approved, the State Court Administrator, or designee, shall assign a senior judge, properly commissioned under SCR 10, to serve.

Judges can be assigned to a specific case or for a length of time, depending on a court's need and a judge's availability. The State Court Administrator, if necessary, can renew or extend assignments, but the renewal or extension must be requested in writing by the respective court following the procedure detailed in Section 3 above.

5. Memorandum of Temporary Assignment

The assignment of a senior judge will be confirmed by Memorandum of Temporary Assignment signed by the Chief Justice or designee and filed by the State Court Administrator or designee.

In the rare circumstance that it is determined that a conflict of interest does exist between the Justice Liaison and the parties and/or counsel of record, the order shall be signed by the Chief Justice or an alternative Associate Justice with whom no conflict of interest exists.

6. Requests for Subsequent Reassignments

Occasionally it may be necessary to reassign a case or calendar a second or third time subsequent to the original assignment. A change of venue, successive peremptory challenges, or the death or illness of an assigned judge may require that the case or calendar be reassigned. In such instances, another Request for Assignment must be submitted to the AOC by the district court in which the case is currently pending.

7. Notification

By copy of the Memorandum of Temporary Assignment, the State Court Administrator will notify the Chief Judge of the requesting district, the presiding judge of the relevant division, or the requesting judge if there is no Chief Judge, the assigned senior judge, and the local clerks of the court and/or court administrators within the requesting and assigned districts. The local clerk of the court/court administrator within the requesting district is responsible for notifying all parties in an action of the judicial assignment.

Inquiries to the AOC from individual litigants or their counsel will be referred to the local clerk of court's office within the requesting district.

If there is a change in the assignment as a result of a case or calendar being continued or vacated, it is the responsibility of the requesting district judge or district court administrator to ensure the assigned judge is notified or that an alternative schedule is in place to utilize the assigned judge when the judge arrives. The requesting district judge or district court administrator shall also notify the AOC Senior Judge Program Coordinator as soon as possible (via fax or e-mail) that a change in the assignment has occurred so that a revised Memorandum of Temporary Assignment can be generated, if necessary.

FACILITIES/SUPPORT BY DISTRICT COURT:

The district in which the assigned judge is being utilized will provide all required assistance for the senior judge, including providing copies of the files at the request of the senior judge. The senior judges or visiting district judges must be made aware of the resources available to prepare court orders and other documents. The requesting district judge, district court administrator or other assigned staff should make the assigned judge aware of the available clerical and law clerk resources and any local procedures and practices.

Other arrangements including, but not limited to, those for facilities and support, shall be the responsibility of the district requesting the assignment.

REQUEST FOR PAYMENT:

Requests for payment must be submitted within 10 days of the time or expense for which the request is made. Monthly invoices should be submitted by the fifth judicial day of each month. Invoices for expenses or time submitted after the 10-day period or the fifth judicial day of the month will result in delays in payment. Senior judges shall complete a payment request form developed by the AOC.

To ensure the Senior Judge Program budget as a whole does not exceed authorized amounts, senior judges need to ensure that they do not exceed the days authorized in the Memorandum of Temporary Assignment. Additional days must be covered with an amended Memorandum of Temporary Assignment, requested by the District Court.

COMPENSATION AND RETIREMENT BENEFITS OF SENIOR JUDGES:

1. Compensation

Senior judges will be compensated at an hourly rate proportional to the gross monthly base salary of the court from which they retired plus full longevity. The hourly pay rate will be calculated on a 250-day judicial year, 8 hours per day. The Supreme Court deems 250 days as a full-time equivalent for purposes of recalculating retirement benefits.

Compensation will be paid according to the following schedule:

- Senior Judges may bill up to 10% for prep time on assignments. Additional prep time compensation may be requested and approved by the Court based upon a description of the nature and type of assignment. For each durational assignment or assignments that are set for one day, the senior judge will be either for a half day (for any assignment ending before 1:00 pm) or a full day for all travel time (except as set forth below) and court time at a rate set by the AOC. No more than 8 hours for any one day of a durational assignment will be compensated except for extraordinary circumstances or when necessary travel of more than 60 miles must take place outside the normal working day. The Chief Judge or his designee or the presiding judge of the division may utilize the senior judge in any way that helps the court during the durational assignment. The senior judge will indicate the number and type of matters handled during the durational assignment.
- For each case assignment for which work must be done outside of the time spent on a durational assignment, the senior judge will be compensated for each hour spent on the case at the hourly rate set by the AOC. The senior judge shall prepare a contemporaneous timesheet and indicate what activities were done and how much time each took with sufficient specificity for the AOC to monitor and support the compensation request.
- For each Supreme Court assignment or pro per appeal assigned to a senior justice, the justice will receive a flat daily rate (8 times the hourly rate set by the AOC) for all preparation, travel, conference, court and writing time incurred on the matter. If more than one appeal is assigned for the same date, the senior justice will receive compensation for one flat daily rate for all matters heard that day.

In extraordinary situations arising during a durational assignment, a senior judge may incur additional time, such as when the senior judge is in a lengthy trial. A senior judge may make application for

additional hourly time incurred in these situations, but must provide a contemporaneous and detailed explanation as to why the work could not have been accomplished during the normal work day and a detailed explanation of the work involved in the extra hours.

In addition to the time incurred on an assignment, a senior judge may request compensation for time incurred during travel of more than 60 miles (each way), but only if the travel time was necessarily incurred outside of a normal work day. In such a case, the senior judge must submit an explanation for the need for the extra-hours travel.

Senior judges may submit more than one request for payment each month; however, invoices shall be processed once a month. Signed original invoices shall be forwarded to the AOC by the 5th judicial day of the month following the performance of the work in order to have them processed expeditiously. All pay requests submitted relating to judicial assignments shall reference the appropriate Memorandum of Temporary Assignment number and shall include a copy of the Memorandum.

2. Travel Claims

In submitting a request for compensation for travel time from May 1, 2008, the senior judge may request time for travel only if the senior judge must travel more than 60 miles from his home court to the assigned court and cannot accomplish the travel within the normal working hours. Travel time shall be compensated at 30% of the normal hourly rate. If travel is by vehicle rather than air for personal reasons (unless prior approval is received), travel time compensation shall be limited to what a reasonable travel time by air would have been.

3. Retirement Benefits

Some senior judges may accrue retirement benefits if the judge retired and became a senior judge prior to July 1, 2015. . Those senior judges may re-enroll in the Public Employees Retirement System (PERS) or Judicial Retirement System (JRS) and earn additional service credit while still collecting their pension benefits and receiving compensation for senior service, if permitted under those plans. A re-enrollment form may be obtained through PERS.

Those judges who retire after July 1, 2015, and become senior judges are not eligible for additional credit; however, they may continue to receive their retirement benefits as outlined in NRS 286.520.

Currently, the AOC pays retirement contribution for senior judges in the old and new JRS and for those in the PERS.

4. Reimbursable Expenses

In addition for paying for educational expenses as outlined above, the AOC will pay:

a. Travel Expenses

The home court (“home court”) for each senior judge living in Nevada is the district court closest to his or her residence. In the case of judges with two residences, the home court is that district court closest to the assignment. A senior judge shall be entitled to claim reimbursement for mileage and/or flight expenses for any travel from his home court to any other judicial district for an assignment consistent with AOC policy and using the form provided by the AOC. Any senior judge who lives more than 60 miles outside of the assigned district and who has received a multi-day assignment and elects to remain in a hotel close to the assignment rather than commute, will receive reimbursement for hotel accommodation and meals.

Any senior judge living more than 60 miles outside of the State of Nevada will be deemed to live more than 60 miles from the assigned court and be entitled to per diem compensation for multiple day assignments as set forth above.

All other costs are the responsibility of the requesting court. Requests for reimbursement for travel expenses must be sent to the AOC no more than 30 days after incurring the expense or payment may be delayed. The AOC will process payment within 7 business days upon receipt of the travel claim. Payment will be forwarded directly to the assigned judge.

b. Health Insurance Premiums

Senior judges may be reimbursed for their personal health insurance costs up to the amount paid by the Supreme Court for Supreme Court employees. Insurance premiums will be reimbursed retroactively at the end of each fiscal year for each month in the preceding fiscal year in which the senior judge qualified for health insurance coverage benefits by working 10 judicial days or more per month. In order to obtain reimbursement, the senior judge must submit an invoice with documentation to the AOC, delineating the months for which reimbursement is requested and the total amount of the reimbursement.

c. State Bar Dues

Senior judges will be reimbursed for their Nevada state bar dues for every year in which the senior judge holds a commission from the Court and sits on the bench. In order to obtain reimbursement, the senior judge must submit an invoice to the AOC attaching proof of payment for bar dues. In the alternative, the senior judge may present the billing invoice to the AOC and the AOC may elect to pay the invoice directly.

d. Other

All commissioned Supreme Court Rule 10 senior judges agree that they are not entitled to any compensation other than as specifically set forth above, including sick leave pay or vacation pay.

FORMAL AND INFORMAL COMPLAINTS


When the Justice Liaison, Program Coordinator, or other Court staff receive formal or informal complaints regarding senior justices or senior judges, the AOC will investigate as appropriate and within Supreme Court policy. When the complaints are regarding violations of personnel or labor laws or policies, the results of the investigation will be provided to the Executive Committee and Justice Liaison for determination of appropriate action. When the complaints are related to administrative or similar concern, the Justice Liaison and AOC Director will determine when an investigation is needed or if another avenue of correction, such as training, would be more appropriate.

FINANCIAL REPORTING AND FISCAL ACCOUNTABILITY:

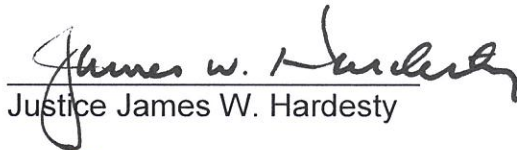
The State Court Administrator or designee shall provide regular financial reports to the Senior Judge Program Justice Liaison as well as other Justices upon request. The reports will provide, at minimum, how much has been spent in the budget categories and any recommendations as to availability of funds for the remainder of the fiscal year.

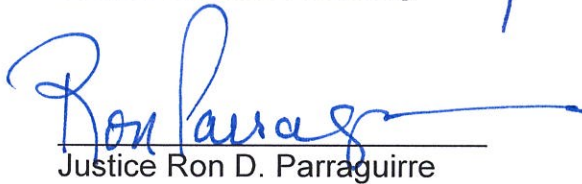
During years that expenses are higher than budgeted projections, the Justice Liaison and/or State Court Administrator will advise the Chief Judges and other district judges that funding is limited for the remainder of the fiscal year and requests will be prioritized accordingly.

Approved by the Court on
July 3, 2019


Chief Justice Mark Gibbons


Justice Kristina Pickering


Justice James W. Hardesty


Justice Ron D. Parraguirre


Justice Elissa Cadish


Justice Abby Silver


Justice Lidia Stiglich