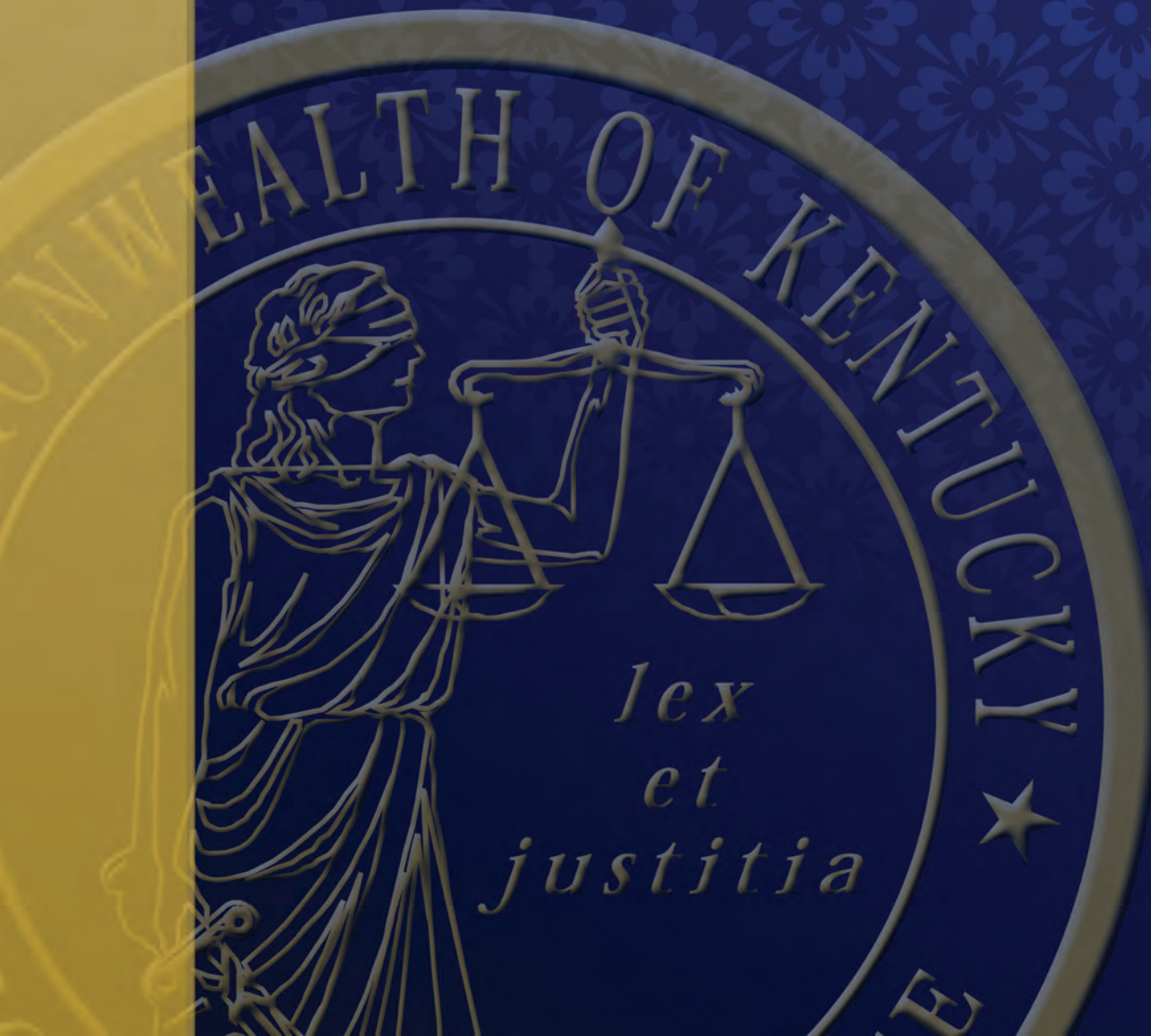


PERSONNEL
POLICIES

for the Kentucky Court of Justice

2025





Kentucky Court of Justice Personnel Policies **Your guide to employment with the state court system**

Debra Hembree Lambert
Chief Justice of the Commonwealth

The Kentucky Court of Justice strives to be an employer of choice – committed to fostering an environment where employees feel respected, supported and empowered to succeed. These updated personnel policies for tenured and non-tenured employees within the Judicial Branch reflect that commitment. This is your resource for understanding your rights, responsibilities and benefits as an employee of the state court system.

I encourage you to take the time to read through these policies, as they contain important information designed to support you in your role. As a state employee, you are subject to these personnel policies as well as certain laws and regulations. You are also entitled to certain benefits.

If you have questions or need assistance, please contact the Department of Human Resources at the Administrative Office of the Courts.

Thank you for your dedication to the Kentucky Court of Justice.

The Kentucky Court of Justice does not discriminate on the basis of race, color, national origin, sex (including pregnancy, gender identity, and sexual orientation), religion, age, parental status, disability, genetic information (including family medical history), smoker or nonsmoker status, military status, political affiliation, or other characteristics protected by law in employment. The KCOJ Personnel Policies are available in an accessible format upon request to the Human Resources Administrator of the Department of Human Resources at the Administrative Office of the Courts.



Administrative Office of the Courts
1001 Vandalay Drive, Frankfort, Kentucky 40601
502-573-2350 or 800-928-2350
kycourts.gov

Find this booklet online at kycourts.gov.
Choose Careers and then click on KCOJ Personnel Policies.

Supreme Court of Kentucky

2025-01

ORDER

**IN RE: AMENDMENTS TO THE RULES OF ADMINISTRATIVE
 PROCEDURE OF THE KENTUCKY COURT OF JUSTICE, AP
 PART III, PERSONNEL POLICIES**

Under Sections 110(5)(b) and 116 of the Constitution of Kentucky, it is ORDERED that Part III of the Rules of Administrative Procedure of the Kentucky Court of Justice, Personnel Policies, is deleted in its entirety and replaced by the Personnel Policies attached hereto.

This order shall be effective upon entry and until further order.

Entered this 2nd day of January 2025.

All sitting; all concur.

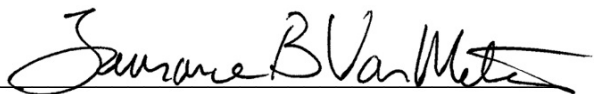

CHIEF JUSTICE

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**NOTE: THESE POLICIES ARE NOT A CONTRACT FOR
EMPLOYMENT AND ARE SUBJECT TO CHANGE WITHOUT NOTICE.**

SECTION 1. General Information

SECTION 1.01 Administration of these Policies

The personnel administration of the Kentucky Court of Justice (KCOJ) is governed by these published Policies. All forms referenced herein can be found on the Administrative Office of the Courts (AOC) Department of Human Resources (AOC HR Department) Intranet website at <https://kcoj.sharepoint.com/sites/HR>.

The AOC shall implement any procedures and trainings necessary to give effect to these Policies.

SECTION 1.02 Applicability of these Policies

These Policies are applicable to all employees in the KCOJ.

SECTION 1.03 Elected and Appointed Officials

These Policies are not applicable to elected and appointed officials in the KCOJ, unless otherwise specified.

SECTION 1.04 Definitions

As used throughout these Policies, the following definitions apply:

- (1) "Accrued paid leave" means compensatory, annual, or sick leave as defined in Section 7 of these Policies.
- (2) "ADA Coordinator" means a representative from the AOC HR Department who is designated by the HR Director to coordinate compliance with the Americans with Disabilities Act.
- (3) "AOC Director" means the Director of the AOC, who acts as the Chief Justice's designee with authority to administer these Policies, including, but not limited to, the enforcement of final disciplinary actions. The AOC Director is the appointing authority for personnel at the AOC and may delegate, in his or her discretion, all or a portion of that authority to AOC employees with supervisory responsibilities.
- (4) "AOC HR Department" means the AOC Department of Human Resources located in Frankfort, Kentucky, managed by the HR Director, and responsible for enforcing these Policies and providing any other related services associated with the administration of personnel for the KCOJ.
- (5) "Appointed official" means an individual who is appointed as a trial commissioner, domestic relations commissioner, or master commissioner in the KCOJ. This does not include an appointed Judge or Circuit Court Clerk.
- (6) "Appointing authority" means an individual who has been delegated authority by the Chief Justice to act on behalf of an agency or office of the KCOJ with respect

to appointments, position actions, payroll documents, leave requests, and disciplinary actions, in conformity with these Policies, subject to the best interests of the KCOJ as determined by the Chief Justice, as the Chief Executive Officer of the KCOJ.

- (7) “Chief Deputy Clerk” means a deputy clerk who has the requisite abilities and knowledge of the operation of the Office of the Circuit Court Clerk and serves in a general supervisory capacity in relation to all other deputy clerks. There may be one Chief Deputy Clerk for every 15 deputy clerks in an Office of the Circuit Court Clerk. The AOC Director may set a maximum number of Chief Deputy Clerks for an office.
- (8) “Elected official” means an individual who is elected or appointed to a constitutional office in the KCOJ. The elected official is the appointing authority for the KCOJ personnel assigned to his or her office.
- (9) “Employee” means an individual hired into a position in the KCOJ, whether tenured or non-tenured, for which he or she is compensated on a full-time or part-time basis.
- (10) “Employee Relations liaison” means a representative from the AOC HR Department who is designated by the HR Director to perform Employee Relations tasks.
- (11) “Family” means the employee's spouse, child, parent, grandparent, grandchild, brother, or sister, or a person of similarly close relationship defined as: (a) an intimate partner who has resided with the employee for at least one year; or (b) one for whom the employee is legally responsible.
- (12) “General Counsel” means the General Counsel for the AOC in Frankfort, Kentucky.
- (13) “Human Resources Director” (HR Director) means the Executive Officer for the AOC HR Department.
- (14) “Intern” means an individual who may receive academic credit and may also receive compensation. An intern who receives compensation is governed under the same rules as temporary employees.
- (15) “Non-tenured employee” means an at-will employee appointed to a non-tenured position described in Section 1.05 of these Policies, who does not serve a probationary period and does not have the right to receive progressive discipline or the right to grieve or appeal position or employee actions, disciplinary actions, or a dismissal.
- (16) “Supervisor” means the individual to whom the employee directly reports.
- (17) “Temporary employee” means a non-tenured, at-will employee who has been appointed to an interim position that shall be less than nine months in duration.

- (18) "Tenured employee" means an employee appointed to a tenured position described in Section 1.06 of these Policies, who has successfully completed the probationary period described in Section 4.04 of these Policies, and as a result, may receive progressive discipline and has grievance and appeal rights as described in Section 8 of these Policies.
- (19) "Volunteer" means an individual who assists a KCOJ employee or department without compensation for services and does not have the rights or benefits of paid employees.
- (20) "Workplace" means any property that is leased, owned, or reserved for use by the KCOJ, any other property or space where official duties are performed, including the buildings and surrounding grounds containing such property or space, and the location of any travel between workplaces or in the course and scope of employment.

SECTION 1.05 Non-Tenured Positions

- (1) Non-tenured positions are as follows:
 - (a) Judicial staff, including judicial support specialists, legal assistants, and case managers hired on or after September 1, 2004; part-time employees hired on or after April 15, 2018; staff attorneys, court administrators, and employees of the court administrator's office;
 - (b) Chief deputy clerks within the Offices of Circuit Court Clerk;
 - (c) Executive administrative employees of the Court of Justice, including Chief of Staff and Counsel to the Chief Justice, Clerk of the Supreme Court, and AOC Director;
 - (d) Principal administrative employees of the Supreme Court and Court of Appeals; and principal administrative employees of the AOC, including the AOC Deputy Director, General Counsel, Deputy General Counsel, Senior Legal Counsel, Legal Counsel, State Law Librarian, directors, executive officers, officers, managers, and department legal liaisons;
 - (e) Federally funded, time-limited positions;
 - (f) Temporary employees;
 - (g) Interns; and
 - (h) Other positions as recommended by the HR Director and the Budget Director and designated on the approved job specification.
 - (i) Court of Justice positions shall be approved by the Chief Justice.
 - (ii) AOC positions shall be approved by the AOC Director or designee.

- (2) Employees appointed to a non-tenured position serve at the pleasure of and at the will of their appointing authority for an unspecified period of time. The appointing authority or designee may dismiss a non-tenured employee, with or without cause or notice, at any time, pending approval of the HR Director. No provision in other KCOJ policies and procedures alters an employee's status as a non-tenured employee.
- (3) Employees appointed to a non-tenured position must sign form AOC-PER-1.2, Non-Tenured Status Acknowledgment, and submit it to the AOC HR Department to be placed in the employee's personnel file. Failure to submit form AOC-PER-1.2 does not change an employee's position or his or her status as a non-tenured employee.

SECTION 1.06 Tenured Positions

- (1) All positions not addressed in Section 1.05 of these Policies and designated on the approved job specification are considered tenured positions.
- (2) Any employee appointed to a tenured position is an at-will employee at the time he or she is hired and while serving his or her probationary period. An employee will become a tenured employee upon the successful completion of a probationary period as determined by the appointing authority or designee. See Section 4.04 of these Policies.
- (3) Individuals who are tenured employees as of the effective date of these Policies shall remain tenured employees as long as they remain in the previously designated tenured position.
- (4) Employees designated as tenured employees may be dismissed pursuant to the procedures outlined in Section 8.04 of these Policies.

SECTION 1.07 Internal Office Policies

- (1) Each appointing authority or designee may have internal office policies that are consistent with the Rules of the Supreme Court, including these Policies and all applicable statutes.
- (2) AOC Office Policies
 - (a) All internal office policies for the AOC are subject to AOC Policy-001, Policies and Standard Operating Procedures: The Creation, Publication, Review, Revision, and Communication of Administrative Procedures, Policies, Standard Operating Procedures, Manuals, Processes, and Guidelines, and must be reviewed and approved by the AOC Office of General Counsel and the AOC Director or designee.
 - (b) All internal office policies for the AOC are subject to review and revision as provided in AOC Policy-001.
- (3) KCOJ Office Policies

- (a) All internal office policies for KCOJ elected official offices must be reviewed by the AOC HR Department and approved by the AOC Office of General Counsel.
- (b) Upon revision of these Policies or other applicable law, all internal office policies are required to be reviewed and if revised, approved as provided in Section 1.07(3)(a) of these Policies. At a minimum, all internal office policies are subject to review and approval every three years.

SECTION 2. Code of Conduct and Ethics

SECTION 2.01 Purpose and Applicability

- (1) A court system that upholds high standards of integrity, impartiality, and independence is indispensable to justice in our society.
- (2) This Code of Conduct and Ethics applies to all employees, interns, temporary employees, and volunteers working within the KCOJ.
- (3) Employees are responsible for consulting with their appointing authority or supervisor or the AOC HR Department to resolve any issues that are not explicitly addressed in this Code of Conduct and Ethics.

SECTION 2.02 General Standards of Conduct and Ethical Obligations for Employees

- (1) Employee actions must promote public confidence in the integrity of the judicial system.
- (2) As public servants, employees of the KCOJ have a duty to manage their professional and personal affairs in a manner that maintains and promotes public confidence in the judicial system.
- (3) Employees must avoid situations that might lead to a conflict of interest, the appearance of a conflict of interest, or the appearance of impropriety between self-interest and their duty to the courts and the general public.
- (4) Employees must perform their official duties in accordance with established KCOJ policies and other workplace policies, processes, and procedures.
- (5) Employees must not allow family, social, or other relationships to influence official conduct or judgment.
- (6) Employees, especially those with supervisory authority, must take appropriate action upon receipt of reliable information indicating a likelihood of conduct in violation of these Policies.

SECTION 2.03 Confidential and KCOJ Administrative Information

- (1) Confidential information includes, but is not limited to:
 - (a) Information, regardless of form, required to be kept confidential by federal law, state law, court rule, administrative regulation, court order, or these Policies, including but not limited to, Social Security numbers, any identification numbers or user identifications, digital signatures, dates of birth, financial account numbers, and medical information; and
 - (b) Information on cases not already a matter of public record.

- (2) KCOJ administrative information includes, but is not limited to, information, regardless of form, including facts, documents, data, or opinions, acquired or accessed during the course of employment for the KCOJ. KCOJ administrative information may also:
 - (a) constitute confidential information under Section 2.03(1) of these Policies; and
 - (b) not be open to public access as an AOC administrative record under AP Part XVII, AOC Open Records Policy, Section 4.
- (3) Employees, current and former, must not directly or indirectly, use or disclose confidential or KCOJ administrative information, except as required by law or as authorized by their appointing authority or designee or an official record custodian for the purpose of performing official duties.
- (4) Employees must exercise discretion in their comments to avoid the appearance of partiality or abuse of position.
- (5) Employees must not remove KCOJ records and documents from the workplace without proper authorization from the appointing authority or designee or official record custodian.
- (6) Employees must:
 - (a) Avoid making public comment about a pending case;
 - (b) Not initiate or repeat communications with litigants, witnesses, attorneys, judges, jury members, or any other person involved with a pending case, unless necessary for official duties; and
 - (c) Refer all media requests to their appointing authority or supervisor or the AOC Office of Communications.
- (7) Employees may respond to inquiries from the public concerning court procedures but shall not provide legal advice.

SECTION 2.04 Performance of Duties and Impartiality

- (1) Employees must perform official duties diligently during working hours.
- (2) Employees must perform their duties impartially, and with courtesy and respect for the public, co-workers, supervisors, and appointing authorities.

SECTION 2.05 Abuse of Position

- (1) Employees must avoid conduct that may give the appearance of impropriety or the appearance that the employee is using his or her position with the KCOJ to further private interests.

- (2) An employee must not improperly use his or her position, title, authority, or access to KCOJ information technology and resources to secure a personal or private benefit or a personal or private benefit for another person.
- (3) An employee must not use his or her position, title, authority, or access to KCOJ information technology and resources to make a purchase of materials or property for personal or private use, or otherwise misuse KCOJ purchasing privileges.
- (4) An employee must not take advantage of his or her access to judges, court files, or KCOJ information technology and resources to further any personal or private interest or engage in any action that may appear to be or is an attempt to influence the outcome of a judicial matter pending or impending before any court in the Commonwealth of Kentucky.
- (5) An employee must never influence or attempt to influence the assignment of cases, or take any action that inappropriately favors any litigant, attorney, person, or entity with business before the court, nor should any employee imply that he or she is in a position to do so.

SECTION 2.06 Anti-Nepotism Policy

(1) Definitions

The following definitions apply to Section 2.06 of these Policies or as otherwise designated within these Policies:

- (a) “Nepotism” means the participation of an employee or elected or appointed official in any action relating to the employment of a person who is a member of his or her family or with whom he or she is in a romantic relationship, including authorizing or otherwise causing the hiring or appointment, reclassification, promotion, demotion, transfer, or assignment to special duty of the person;
- (b) “Family” has the same meaning as provided in Section 1.04 of these Policies;
- (c) “Romantic relationship” means marriage or a relationship between individuals involving casual or serious dating, sexual contact, intimacy, or any other conduct typically associated with a romantic or sexual relationship.

(2) Statement of Policy

- (a) This policy applies with equal force to elected and appointed officials.
- (b) It is the policy of the KCOJ that all employees be hired based on demonstrated knowledge, skills, abilities, and bona fide work-related factors, and not based on favoritism or family relationship.
- (c) To avoid conflicts of interest and the appearance of favoritism, nepotism is prohibited.

- (3) This Policy shall not be retroactively enforced and will only apply to employment actions occurring on or after January 1, 2020.

SECTION 2.07 Conflict of Interest

- (1) A conflict of interest or its appearance can seriously undermine the public's confidence and trust in the judiciary. KCOJ employees must identify and avoid conflicts of interest.
- (2) A conflict of interest exists when:
 - (a) An employee participates in an action or decision that directly or indirectly impacts that employee or a member of his or her family, as defined in Section 1.04 of these Policies, or a person with whom the employee has a close personal relationship, including a romantic relationship as defined in Section 2.06 of these Policies; or
 - (b) An employee or elected or appointed official supervises or manages, directly or in his or her chain of command, any person who is a member of his or her family, as defined in Section 1.04 of these Policies, or is a person with whom he or she has a close personal relationship, including a romantic relationship as defined in Section 2.06 of these Policies.
- (3) An employee must immediately report the potential for or the existence of a conflict of interest to his or her appointing authority or supervisor and the HR Director in writing. An employee's failure to make a timely report a conflict of interest may result in discipline up to and including dismissal.
- (4) The HR Director or designee and the appointing authority or designee, in consultation with the Office of General Counsel, will evaluate whether a conflict of interest exists, and if so, the HR Director or designee will approve appropriate measures to resolve it.

SECTION 2.08 KCOJ Property and Resources

- (1) Employees and elected and appointed officials must use public resources, property, and KCOJ funds for official business only.
- (2) Employees and elected and appointed officials must return all KCOJ property, including but not limited to, keys, identification badges, parking badges, and assigned technology hardware, to their appointing authority or designee upon separation of employment or office. The KCOJ will consider the failure or refusal of any employee or elected or appointed official to return KCOJ property upon separation to constitute theft.
- (3) An employee must receive prior approval from his or her appointing authority or designee before removing any KCOJ property, including technology hardware, from his or her workstation. An appointing authority or designee may only permit an employee to remove KCOJ property from his or her workstation if there exists a

legitimate business need for the removal and may require the employee to return the KCOJ property at any time.

- (4) Employees and elected and appointed officials are subject to the Acceptable Use Policy for COJ Information Technology, Supreme Court Administrative Order 2015-06, as amended or otherwise superseded by subsequent Kentucky Supreme Court Administrative Order. The Acceptable Use Policy for COJ Information Technology shall be available on the HR Intranet site and from the AOC HR Department.
- (5) The KCOJ policy prohibiting offensive, intimidating, or harassing material in the workplace applies with equal force to material accessed by, communicated through, or stored upon electronic systems.
- (6) Any violation of this policy may result in discipline up to and including dismissal. Matters involving elected and appointed officials will be addressed by the appropriate disciplinary authority.

SECTION 2.09 Outside Employment of Full-Time and Part-Time Employees

- (1) The KCOJ must be the primary employer of each full-time employee and part-time employee.
- (2) Due to the obligation of all KCOJ employees to maintain and promote public confidence in the judicial system, outside employment will be reviewed to ensure conformity with this Code of Conduct and Ethics.
- (3) All KCOJ employees are prohibited from:
 - (a) Outside employment that creates a conflict of interest, potential conflict of interest, or the appearance of a conflict of interest.
 - (b) Outside employment that cannot be accomplished before or after the employee's normal KCOJ working hours.
 - (c) Outside employment that is incompatible with the performance of the employee's KCOJ official duties.
 - (d) Outside employment with an entity that conducts financial business with the KCOJ, an entity that regularly appears in court, or an entity that requires the employee to have frequent contact with attorneys who regularly use the court system.
 - (e) Performance of work for any state governmental entity within the Commonwealth of Kentucky without the written consent of the AOC Director or designee.
 - (f) Outside employment that abuses the employee's position with the KCOJ or uses confidential or KCOJ administrative information acquired in the performance of the employee's KCOJ official duties.

(4) Approval or Denial of Request

- (a) An employee who wishes to engage in outside employment must submit form AOC-PER-2.1, Secondary Employment Request, to his or her appointing authority or designee.
- (b) All new employees who wish to continue their outside employment must submit form AOC-PER-2.1 to their appointing authority or designee at the start of their employment with the KCOJ and receive documented approval to continue such employment. New employees engaged in outside employment will be required to cease such employment if the employment does not comply with these Policies.
- (c) Requests for approval of outside employment must contain the following information:
 - (i) Name, address, and phone number of outside employer;
 - (ii) Duties and responsibilities of the position; and
 - (iii) Scheduled work hours for each week.
- (d) The appointing authority or designee, after consultation with the HR Director or designee, will determine if the request complies with these Policies.
- (e) The employee may request reconsideration by submitting the request to the AOC Director or designee for a final determination.

(5) Change in Outside Employment Status

All employees with approved outside employment must immediately notify their appointing authority or designee in writing when a change in their outside employment status occurs. Written notification of a change in outside employment status must be made when any of the following occurs:

- (a) Change in the identity of the outside employer;
- (b) Substantial change in the duties or responsibilities of the outside employment;
- (c) Substantial change in work schedule and hours of the outside employment;
- (d) Reasonable belief that an actual or potential conflict of interest, as specified in Section 2.07 of these Policies, has developed; or
- (e) Any other change in outside employment that would cause the outside employment to be inconsistent with this Code of Conduct and Ethics or these Policies.

(6) Change in KCOJ Official Duties

Any employee with approved outside employment who experiences a substantial change in their KCOJ official duties, including but not limited to a change in job classification, must resubmit form AOC-PER-2.1 following the process outlined in Section 2.09(4) of these Policies to obtain approval and continue such employment.

- (7) In the absence of an employee's submission of form AOC-PER-2.1, as required by Section 2.09 of these Policies, the appointing authority or designee may undertake a review for compliance with these Policies. After consulting with the HR Director or designee, the appointing authority or designee will advise the employee as to whether the outside employment is approved and may continue.
- (8) The AOC HR Department or the appointing authority or designee may conduct a periodic review of previously approved outside employment requests to ensure continued compliance with these Policies.

SECTION 2.10 Gifts and Gratuities

- (1) Except as provided in Section 2.10(2) of these Policies, an employee must not accept a gift, payment of cash or cash equivalent (e.g., gift cards), favor, loan, tickets or passes for admission to a sporting or entertainment event, meals, travel expenses, services, memberships to private clubs, including social, athletic, or country clubs, or other items totaling a value greater than \$25 in a single calendar year from:
 - (a) Any person or entity likely to be engaged in a proceeding that would normally come before the court;
 - (b) Any person, vendor, or entity likely to do business or seeking to do business with the KCOJ; or
 - (c) Any other person or entity under circumstances that might reasonably be considered as influencing, attempting to influence, or appearing to influence the performance or non-performance of an employee's official duties or responsibilities with the KCOJ.
- (2) The following are not considered gifts:
 - (a) Gifts and social hospitality from family or other individuals with whom the employee has a close personal relationship.
 - (b) Registration fees and travel expenses related to an activity devoted to the improvement of law, the legal system, administration of justice, or an employee's official job duties, sponsored by an outside entity, agency, or organization, so long as, the source of the payment does not improperly influence or the give the appearance of improperly influencing the employee in performance of official duties, or otherwise give the appearance of impropriety. Sponsored expenses are limited to the actual cost of attending the activity, including registration fees, travel, food, and lodging reasonably incurred by the employee.

- (i) Examples of sponsored expenses that are excepted from Section 2.10(1) of these Policies include, but are not limited to, the following:
 - a. Costs associated with attending a meeting, training, presentation, professional education, or license/certificate course(s);
 - b. Travel costs required for an employee who is a board member or member of an organization to attend board meetings and other events associated with the organization; and
 - c. Registration fees and travel costs associated with attendance to state and national conferences that are related to the business, purpose, and mission of the KCOJ.
- (ii) Sponsored expenses include full and partial waivers, scholarships, and payments of registration fees or associated travel costs by an outside entity, agency, or organization.
- (iii) Requests for sponsored travel that qualify as an exception must be submitted and approved in accordance with the Administrative Procedures of the Court of Justice (AP) Part VII, Reimbursement for Official Travel, and any other AOC policies, processes, and procedures.
- (c) Books, plaques, certificates of appreciation, and other forms of honoraria.
- (d) Door prizes that are available to the public.
- (e) Tickets or passes for admission to a sporting or entertainment event if the employee pays face value for the ticket or pass.
- (f) Gifts or donated items from an appointing authority or supervisor or elected or appointed official to KCOJ employees or subordinates.
- (3) If an employee receives a gift that is prohibited by Section 2.10(1) of these Policies, he or she must:
 - (a) Notify his or her supervisor that a prohibited gift has been received; and
 - (b) Return the gift as soon as possible. If returning the item is not possible, the employee's supervisor should contact his or her appointing authority or designee for further guidance. With the approval of the employee's appointing authority or designee, perishable items may be given to a charitable organization or shared by all employees within the employee's office.
- (4) An employee must not request or accept, either from within the KCOJ or an outside entity, any additional fee, gratuity, or bonus over the employee's regular compensation for the performance of his or her KCOJ official duties.

SECTION 2.11 Political Activities

(1) Political Contributions and Campaigns

- (a) No employee in the KCOJ may be coerced, forced, or required to make any contribution for political purposes.
- (b) No employee in the KCOJ may be coerced, forced, or required to solicit or take part in soliciting for political purposes.
- (c) Employees are prohibited from using KCOJ work time or resources for the purpose of political solicitation. Employees shall not display campaign literature or other election material in the workplace.

(2) Political Office

(a) Partisan Political Office

All employees of the KCOJ shall terminate their employment upon appointment or prior to filing for election to any partisan political office.

(b) Nonpartisan Office

- (i) Employees of the KCOJ who are appointed to or seek to hold a nonpartisan, non-judicial office are not required to terminate their employment upon appointment or prior to filing for election to the nonpartisan, non-judicial office as long as campaigning for election does not interfere with the performance of their duties. Any employee who is appointed to or intends to seek a nonpartisan, non-judicial office shall notify his or her appointing authority or designee and the AOC HR Department upon appointment or prior to filing for election.
 - (ii) Employees of the KCOJ shall terminate their employment upon appointment to any judicial office and, to avoid the appearance of impropriety or a conflict of interest, prior to filing for election to any judicial office.
- (c) Conduct by an employee that is consistent with or indicative of an active campaign for an office that would require the employee to terminate his or her employment prior to filing for election under these Policies is incompatible with this Code of Conduct and Ethics. A substantiated report of this conduct may result in discipline up to and including dismissal.
 - (d) Pursuant to Kentucky Constitution §165 and KRS 61.080, there are certain offices considered incompatible by law. When considering any elected or appointed nonpartisan office, these sources must be consulted. Acceptance of an incompatible office voids the first office as a matter of law.

(3) Political Activities

- (a) The KCOJ encourages employees to register and vote. For information regarding voting leave, refer to Section 7.06 of these Policies.
- (b) The following political activities are permitted for employees, except while the employee is on duty:
 - (i) Expressing opinions on all political subjects and candidates.
 - (ii) Making voluntary cash contributions to political parties, candidates, and organizations.
 - (iii) Joining a political club and attending its meetings.
 - (iv) Attending political rallies, conventions, etc., and participating in the selection of committee members.
 - (v) Wearing political badges, buttons, or other designations. Nothing in these Policies prohibits voluntarily displaying political stickers on private automobiles or displaying political pictures or signs on private property.
 - (vi) Serving as precinct election officers at the polls.
 - (vii) Actively working for or against constitutional amendments, referendums, or municipal ordinances in which they are interested, provided that state time and resources are not used for this purpose.
 - (viii) Transporting friends or relatives to the polls.
 - (ix) Soliciting or handling political contributions.
 - (x) Soliciting the sale of or selling political party, faction, or candidate items or tickets. Employees may voluntarily purchase such items or tickets.
 - (xi) Preparing, organizing, or conducting a political meeting or rally, or addressing such a meeting on any partisan political matter.
 - (xii) Participating in a partisan activity at the polls (in primary, regular, or special elections) in the position of checker, challenger, or watcher, or assisting voters to mark ballots.
 - (xiii) Distributing campaign literature or material.
 - (xiv) Initiating or circulating partisan political nominating petitions.
 - (xv) Canvassing a district or soliciting political support from a party, faction, or candidate, either in person or in writing.

SECTION 2.12 Practice of Law

While holding a position with the KCOJ, an employee or elected official who is a licensed attorney must not engage in the practice of law outside the scope of his or her official duties, except an employee or elected official may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of his or her family. All employees and elected officials previously engaged in the practice of law shall cease all advertising upon employment by or election to the KCOJ.

SECTION 2.13 Duty to Report

- (1) Employees have a duty to report certain events or court actions that may create a conflict of interest with their official duties or may undermine public confidence in the integrity of the judicial system.
- (2) Criminal Offenses
 - (a) For purposes of Section 2.13 of these Policies, a criminal offense means conduct for which a term of incarceration or a fine is provided by law.
 - (b) Employees must report to their appointing authority or designee their arrest, charge, guilty plea, or conviction related to any criminal offense on the next business day following the event. The appointing authority or designee must report the charge to the HR Director or designee immediately.
 - (c) The HR Director or designee, in consultation with the General Counsel or designee and the appointing authority or designee, shall evaluate the criminal offense to determine the appropriate response, and will consider the nature and seriousness of the criminal offense, whether the employee can or should continue to perform his or her official duties as a result of the criminal offense, and whether public trust and confidence in the court system is undermined by the criminal offense.
 - (i) The employee may be suspended with or without pay, as determined by the HR Director or designee. If the existence of a criminal offense charge creates a conflict of interest, it must be resolved in accordance with Section 2.07 of these Policies.
 - (ii) Employees may receive discipline up to and including dismissal upon being arrested for, charged with, pleading guilty to, or being convicted of a criminal offense.
 - (d) Employees suspended without pay under Section 2.13 of these Policies may use accrued paid leave while suspended.
 - (e) Suspensions without pay under Section 2.13 of these Policies involving tenured employees are subject to the grievance and appeal procedures identified in Section 8 of these Policies upon return to work or after final action has been taken.

- (f) Failure to timely report an arrest, charge, guilty plea, or conviction related to any criminal offense under Section 2.13(2) of these Policies could result in discipline up to and including dismissal.

(3) Civil Actions

- (a) Employees must report to their appointing authority or designee immediately upon initiating or learning of the initiation of any civil action that may come before the courts of the Commonwealth in which the employee or a member of the employee's family is a named party.
- (b) If any pending or impending civil action creates a conflict of interest for the employee, it must be reported and resolved in accordance with Section 2.07 of these Policies.
- (c) Failure to timely report a civil action under either Section 2.13(3)(a) or (b) of these Policies could result in a discipline up to and including dismissal.

SECTION 2.14 Violations of the Code of Conduct and Ethics

- (1) Employees and elected and appointed officials are encouraged to report an employee's violation of this Code of Conduct and Ethics. Supervisors and appointing authorities may report violations involving employees under their supervision directly to the AOC HR Department. All other individuals are encouraged to email reports to courtstipline@kycourts.net.
- (2) Any violation of this Code of Conduct and Ethics may result in discipline up to and including dismissal.
- (3) Employees are prohibited from retaliating against a person who, in good faith, makes a report or otherwise assists in an investigation of an alleged violation of this Code of Conduct and Ethics .

SECTION 3. Workplace Conduct and Protections

SECTION 3.01 Purpose and Applicability

- (1) The KCOJ is committed to:
 - (a) Identifying, prohibiting, and correcting wrongful conduct, as defined in Section 3.02 of these Policies, which includes:
 - (i) Providing a workplace of respect, civility, fairness, tolerance, and dignity, free of discrimination and harassment, abusive conduct, and retaliation;
 - (ii) Offering safe and accessible options to report wrongful conduct;
 - (iii) Taking appropriate action when wrongful conduct is reported; and
 - (iv) Removing any actual or perceived barriers to the reporting of such conduct.
 - (b) Providing equal employment opportunities and promoting and facilitating diversity and inclusion in its workforce;
 - (c) Ensuring employees with a disability or a pregnancy-related medical condition are provided reasonable accommodations;
 - (d) Maintaining a drug-free workplace; and
 - (e) Protecting KCOJ personnel against workplace violence.
- (2) The policies set forth in Section 3 of these Policies apply to:
 - (a) Elected and appointed officials based on their status as appointing authorities for the Court of Justice;
 - (b) Current employees;
 - (c) Former employees, as related to their KCOJ employment; and
 - (d) Applicants for employment who were interviewed.

SECTION 3.02 Wrongful Conduct

- (1) KCOJ employees have a right to a workplace free of discrimination, discriminatory harassment, abusive conduct, and retaliation.
- (2) Section 3.02 of these Policies prohibits wrongful conduct that may occur during the course of an employee's KCOJ employment or during or after an applicant's interview process.

(3) Definition of Wrongful Conduct

Wrongful conduct includes:

(a) Discrimination

Discrimination is an adverse employment action that materially affects the terms, conditions, or privileges of employment (such as appointment, promotion, compensation, dismissal, or a significant change in benefits) based on a protected class, including race, national origin, color, religion, sex (including pregnancy, gender identity, and sexual orientation), parental status, age (40 years and over), disability, genetic information (including family medical history), smoker or non-smoker status, military status, political affiliation, or any other characteristic protected by law.

(b) Discriminatory harassment

- (i) Discriminatory harassment occurs when unwelcome or unsolicited speech or conduct based on the protected classes identified in Section 3.02(3)(a) of these Policies is sufficiently severe or pervasive to alter the conditions of employment and create an abusive work environment.
- (ii) Sexual harassment is a form of discriminatory harassment.
- (iii) The KCOJ recognizes that a person of any gender may be the victim of discriminatory harassment or may be the harasser and that the victim's protected class(es) as identified in Section 3.02(3)(a) of these Policies do not need to be different from the harasser.

(c) Abusive conduct

- (i) Abusive conduct is a pattern of demonstrably egregious and hostile conduct, not based on a protected class identified in Section 3.02(3)(a) of these Policies, that unreasonably interferes with an employee's work and creates an abusive working environment.
- (ii) Abusive conduct can be threatening, oppressive, or intimidating. Abusive conduct does not include communications and actions reasonably related to performance management, including but not limited to instruction, corrective criticism, and evaluation; performance improvement plans; duty assignments and changes to duty assignments; office organization; progressive discipline; and adverse action.

(d) Retaliation

- (i) Retaliation is conduct by an appointing authority or designee that may deter a reasonable person from reporting wrongful conduct, participating in or assisting with the investigation of alleged wrongful conduct, or

opposing wrongful conduct.

(ii) Retaliation against a person who reports wrongful conduct, participates in or assists with the investigation of alleged wrongful conduct, or opposes wrongful conduct is itself wrongful conduct.

(e) Violation of any workplace protections contained in Section 3 of these Policies.

(4) Forms and Examples of Wrongful Conduct

(a) Verbal

(i) Jokes that have the purpose or effect of stereotyping, demeaning, or making fun of an individual.

(ii) Derogatory comments, slurs, epithets, threats, or propositions about an individual.

(iii) Verbal innuendo or insinuation that relates to or reflects negatively on a particular characteristic.

(b) Nonverbal

(i) Displaying (including distributing or communicating through electronic systems such as email or text message) photographs, posters, drawings, suggestive objects, literature, cartoons, calendars, graffiti, or any item that is degrading to or reflects negatively on a particular characteristic or person.

(ii) Making sexually suggestive or insulting noises or sexually obscene gestures.

(iii) Arranging to be alone with a person for the purpose of making sexual advances.

(iv) Nonverbal innuendo or insinuation that relates to or reflects negatively on a particular characteristic or person.

(c) Physical

Intentional touching, pinching, or brushing the body, kissing, assault, coercing sexual contact, or interference with an individual's normal movements.

(d) Other

Making threatening reprisals as a result of a negative response to wrongful conduct as a form of retaliation.

SECTION 3.03 Reporting and Resolution of Workplace Conduct Concerns

(1) Reporting Workplace Conduct Concerns

- (a) “Workplace conduct concerns” are an individual’s good-faith beliefs that an employee or applicant, including oneself, has been subjected to wrongful conduct.
- (b) The KCOJ is committed to addressing wrongful conduct as soon as possible, before it becomes severe or pervasive, so that the conduct can be corrected and addressed, and further wrongful conduct can be prevented.
- (c) Employees and elected and appointed officials should immediately report any workplace conduct concerns to a supervisor, appointing authority, or the AOC HR Department. Employees are also encouraged to report any workplace conduct concerns involving non-KCOJ personnel.
- (d) The HR Director or designee will assign an Employee Relations liaison to receive and review each report of workplace conduct concerns consistent with the right to impartiality as identified under Section 3.03(2)(b) of these Policies.

(2) Statement of Rights

All resolutions of workplace conduct concerns offered by the KCOJ are intended to respect the privacy of all involved to the greatest extent possible, and to protect the fairness and thoroughness of the process by which workplace conduct concerns may be presented, investigated when necessary, and resolved.

(a) Confidentiality

- (i) All KCOJ employees and elected and appointed officials involved in a report of workplace conduct concerns must maintain the confidentiality of the allegations and resolution, including any preliminary investigation and interim action.
- (ii) Information will be shared only to the extent necessary or as required by law and only with those whose involvement is necessary.
- (iii) An assurance of confidentiality must yield when there is reliable information of wrongful conduct that threatens the safety or security of any person(s) or that is so serious or egregious such that it threatens the integrity of the judicial system.
- (iv) The employee relations file associated with a report and resolution of workplace conduct concerns must be maintained confidentially by the AOC HR Department.
- (v) No document relating to the report and resolution of workplace conduct concerns will be filed in any individual’s official personnel file, except as

necessary to document a disciplinary, position, or employee action.

(b) Impartiality

- (i) All resolutions of workplace conduct concerns must be conducted in a thorough, fair, and impartial manner.
- (ii) The Employee Relations liaison may not act as an advocate for any person.
- (iii) The Employee Relations liaison and any other AOC employee who has a duty or is asked to assist with the resolution of workplace conduct concerns must recuse if he or she participated in, witnessed, or was otherwise involved in the conduct or employment action giving rise to the workplace conduct concerns or if the matter creates an actual conflict of interest or the appearance of a conflict of interest as defined in Section 2.07 of these Policies.
- (iv) In the event of recusal, the HR Director or designee will designate another AOC employee to perform the duties of the conflicted employee.

(c) Interim Action

- (i) An employee who pursues resolution of workplace conduct concerns under Section 3.03 of these Policies and reports egregious conduct by an individual that makes it untenable to continue performing official duties under the present terms of employment during the pendency of the resolution may request a voluntary transfer, a reporting structure change, an alternative work arrangement, paid administrative leave, or other reasonable measure.
- (ii) Any request for interim action must be submitted to the Employee Relations liaison. Upon review by the HR Director, a recommendation may be made to the Chief Justice or the AOC Director, as appropriate, to approve appropriate interim action, if any, taking into consideration the impact the action may have on a KCOJ agency or office.

(d) Complaints with Other Authorities

In addition to or in lieu of any resolution that may be sought under Section 3.03 of these Policies, an individual may submit his or her workplace conduct concerns involving the conduct of an elected or appointed official to the appropriate investigatory and/or disciplinary authority.

(3) Informal Guidance

- (a) When safe to do so, an employee is encouraged to address workplace conduct concerns directly with the person who he or she believes to have engaged in

wrongful conduct. Alternatively, an employee may seek guidance from his or her supervisor on the best way to address or resolve the workplace conduct concerns.

- (b) An employee may contact the Employee Relations liaison for information on any of the following topics:
 - (i) Possible resolutions the employee may pursue under these Policies or other laws, including as outlined under Section 3.03(3)(a) of these Policies; and/or
 - (ii) How to address and respond to workplace conduct concerns as they are happening.
- (c) The Employee Relations liaison may conduct a limited inquiry with the employee for the purpose of identifying possible resolutions the employee may pursue under these Policies or other laws.

(4) Conflict Resolution

- (a) Conflict resolution is an interactive process that seeks a confidential resolution of the workplace conduct concerns without the filing of a formal complaint. A conflict resolution may include:
 - (i) Moderated discussion of the workplace conduct concerns with the employee and person(s) alleged to have engaged in workplace conduct concerns;
 - (ii) A preliminary investigation by the Employee Relations liaison to determine the suitability of conflict resolution and if appropriate, the type of conflict resolution that may be agreeable to the parties;
 - (iii) Mediation between the parties; and/or
 - (iv) Resolution of the matter by agreement.
- (b) An employee may request conflict resolution by submitting form AOC-PER-10.0, Report of Workplace Conduct Concerns.
- (c) Mediators
 - (i) In order to promote confidence in the resolution of workplace conduct concerns under Section 3.03(4) of these Policies, the Chief Justice shall appoint at least five former Judges or Justices, Circuit Court Clerks, or AOC Executive Officers or Managers who have completed a 40-hour mediation training who will serve as mediators for conflict resolutions.
 - (ii) The term of service for the appointed mediators is two years.

- (iii) All appointed mediators shall complete a training on these Policies.
 - (iv) All mediations shall be conducted in accordance with Section 3.03 of these Policies and the ethical guidelines set forth in AP Part XII, Mediation Guidelines for Court of Justice Mediators, Section 3.
 - (v) Only one appointee will serve as a mediator for a conflict resolution.
 - (vi) If the Chief Justice is a participant in the conflict resolution, a retired Judge or Justice who meets the criteria contained in Section 3.03(4)(c)(i) of these Policies but is not currently an appointed mediator shall be appointed by the Deputy Chief Justice for the purpose of the conflict resolution.
 - (vii) A mediator shall disqualify him or herself from any proceeding where he or she has a personal bias concerning a participant, has personal knowledge of the workplace conduct concerns, or has expressed an opinion concerning the merits of the workplace conduct concerns.
- (d) The Employee Relations liaison must:
- (i) Advise the employee of the conflict resolution procedures adopted by the AOC HR Department;
 - (ii) Facilitate the employee's completion of form AOC-PER-10.0;
 - (iii) Conduct a limited inquiry for the purpose of identifying the workplace conduct concerns;
 - (iv) Designate a mediator from the list of appointed mediators who is able to serve and ensure the mediator does not have a conflict of interest;
 - (v) Be responsible for maintaining any documentation associated with the conflict resolution; and
 - (vi) Provide administrative support to the mediator.
- (e) Where the report of workplace conduct concerns does not indicate discrimination, discriminatory harassment, or retaliation has occurred, the employee must first attempt to address the workplace conduct concerns through conflict resolution before filing a formal complaint.
- (f) The Employee Relations liaison must notify the appointing authority or designee of an employee who participates in conflict resolution.
- (g) The mediator may request an employee's appointing authority or designee assist with evaluating the report of workplace conduct concerns and facilitating the conflict resolution.

- (h) The mediator will submit any recommended terms of resolution agreed upon by the participants as evidenced by their signatures on form AOC-PER-10.1, Terms of Resolution, and obtain appropriate approval. If the recommended terms are rejected in whole or in part by the appropriate authority, the mediator may reconvene conflict resolution efforts to identify other possible terms of resolution.
- (i) The mediator, in consultation with the appointing authority(ies) or designee(s), will determine when to conclude the conflict resolution. However, the mediator, in his or her own discretion, may conclude the conflict resolution at any time based on a failure of any of the parties to comply with these Policies or other policies, procedures, or guidelines, including refusal by any party to participate in conflict resolution.
- (j) When the conflict resolution is concluded, the Employee Relations liaison must complete form AOC-PER-10.2, Notice of Conclusion of Conflict Resolution, indicating whether the workplace conduct concerns have been fully resolved.
- (k) If the parties are able to resolve the workplace conduct concerns through conflict resolution, the Employee Relations liaison must attach the approved form AOC-PER-10.1, Terms of Resolution, if any.
- (l) If the parties do not resolve the workplace conduct concerns, the Employee Relations liaison must inform the participants of the right to pursue a formal complaint under Section 3.03(5) of these Policies.

(5) Formal Complaint

- (a) A formal complaint seeks the confidential resolution of workplace conduct concerns through a prescribed investigative process, which may include interviews of parties and witnesses, submission and review of relevant evidence, an investigation report, findings, recommendation, and final decision.
- (b) Any employee who has workplace conduct concerns and wishes to file a formal complaint must submit form AOC-PER-10.0 as soon as possible.
- (c) The Employee Relations liaison must:
 - (i) Advise the complainant of any applicable policies, procedures, or guidelines;
 - (ii) Facilitate the complainant's completion of form AOC-PER-10.0; and
 - (iii) Conduct a limited inquiry for the purpose of resolving procedural questions and clearly identifying the workplace conduct concerns to be resolved.
- (d) When recusal is required under Section 3.03(2)(b) of these Policies, the HR Director or designee may conduct an informal investigation of the report,

including communication with any relevant individuals, and in his or her discretion, may either require the complainant and any person(s) alleged to have committed wrongful conduct to first engage in conflict resolution or with the agreement of all parties, resolve the workplace conduct concerns informally in lieu of proceeding with a formal complaint under Section 3.03(5) of these Policies.

- (e) To initiate the formal complaint process, the Employee Relations liaison must notify any person(s) alleged to have engaged in wrongful conduct that a formal complaint has been filed, that an investigation will begin as soon as possible, and he or she is to comply with any applicable policies, procedures, or guidelines.
- (f) If the person(s) alleged to have engaged in wrongful conduct is an elected or appointed official, the Employee Relations liaison must notify the appropriate disciplinary and/or investigative authority that a formal complaint alleging workplace conduct concerns has been filed, the type of wrongful conduct identified on form AOC-PER-10.0, the name of the employee who is alleged to have been subjected to the wrongful conduct, and an investigation will be conducted.
- (g) Except as provided in Section 3.03(7) of these Policies, the Employee Relations liaison will coordinate and conduct an investigation. The investigation will include interviews with all relevant individuals. The Employee Relations liaison will have 45 calendar days to complete the investigation. Failure to meet this deadline does not invalidate the findings of the investigation.
- (h) A single investigation may be conducted under Section 3.03(5)(g) of these Policies based on multiple complaints if the workplace conduct concerns in all of the complaints arise out of the same incident or allege similar or related conduct by the same person.
- (i) Within 15 calendar days of completing the investigation, the Employee Relations liaison will provide the complainant and person(s) alleged to have engaged in wrongful conduct with access to the written investigation summary and referenced evidence.
- (j) The complainant and person(s) alleged to have engaged in wrongful conduct will have 15 calendar days to submit a written response and supporting documentation, including the right to identify additional individuals who should be interviewed. If the 15-day deadline is insufficient, the Employee Relations liaison may grant an extension of no more than 15 calendar days.
- (k) Within 15 calendar days of receipt of the responses, the Employee Relations liaison will review the responses, conduct any additional investigation if needed, and submit to the AOC Director or designee a workplace conduct report, to include the investigation summary, findings, and recommendations, with any responses attached. To the extent required by law, a copy of the

workplace conduct report shall be provided to any investigative and/or disciplinary authority.

- (l) Within 30 calendar days of receipt of a workplace conduct report, the AOC Director will issue a written decision to the complainant and the person(s) alleged to have engaged in wrongful conduct, with copies to their appointing authority(ies).
- (m) If the person(s) alleged to have engaged in wrongful conduct is an elected or appointed official, the AOC Director will not issue a decision as provided in Section 3.03(5)(l) of these Policies but shall submit the workplace conduct report to the Chief Justice, or where appropriate the Deputy Chief Justice, who shall issue a decision or refer the workplace conduct report to the appropriate disciplinary and/or investigative authority.
- (n) In the event that the AOC Director is a person alleged to have committed wrongful conduct, the workplace conduct report will be submitted to the Chief Justice to issue the decision as set forth in Section 3.03(5)(m) of these Policies.
- (o) Any decision issued shall be submitted to the Employee Relations liaison for filing.

(6) Discipline or Referral

- (a) Upon a finding that an employee has engaged in wrongful conduct or otherwise failed to comply with these Policies or the policies of the employee's office or department, the employee will be subject to discipline up to and including dismissal.
- (b) Upon a finding that an elected or appointed official has engaged in wrongful conduct, the AOC Director or designee may submit the workplace conduct report to the appropriate investigatory and/or disciplinary authority as a complaint on behalf of the AOC if not otherwise referred under Section 3.03(5)(m) of these Policies.

(7) Authority to Investigate

The HR Director has authority to assign personnel for the purpose of resolving all reports of workplace conduct concerns. In extraordinary circumstances, the HR Director or designee may request the AOC Director retain outside assistance.

(8) False Reports

If the HR Director or designee finds that the complainant intentionally made a false report of workplace conduct concerns, the complainant will be subject to immediate and appropriate discipline up to and including dismissal.

SECTION 3.04 Equal Employment

- (1) Equal employment opportunities are provided throughout the KCOJ in all employment practices, including recruitment, appointment, job assignment, promotion, compensation, training, and fringe benefits, without regard to the protected classes identified in Section 3.02(3)(a) of these Policies.
- (2) A diverse, equitable, and inclusive workplace enhances the public's confidence in the court system and improves the work environment by bringing different viewpoints, skills, backgrounds, and interests to the KCOJ.
- (3) The KCOJ will provide training opportunities for employees and elected and appointed officials on matters related to diversity, equity, and inclusion.
- (4) Appointing authorities may work with the AOC HR Department to implement employment practices that are consistent with Section 3.04 of these Policies.

SECTION 3.05 Disability Accommodations

- (1) The Americans with Disabilities Act (ADA) and the Kentucky Civil Rights Act prohibit discrimination based on disability and ensure equal opportunity in employment for qualified individuals with disabilities.
- (2) The ADA Coordinator processes requests for reasonable accommodations consistent with current law and ensures reasonable accommodations are provided in a prompt, fair, and efficient manner.
- (3) Definitions

The following definitions apply to Section 3.05 of these Policies and as otherwise designated within these Policies:

- (a) "Reasonable Accommodation" means modifications or adjustments to:
 - (i) A job application process that enables a qualified applicant with a disability to be considered for the position desired;
 - (ii) The work environment, or the manner or circumstances under which the position held or desired is customarily performed, to enable a qualified individual with a disability to perform the essential functions of that position; or
 - (iii) Enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.
- (b) "Disability" means, with respect to an individual:
 - (i) A physical or mental impairment that substantially limits one or more of

an individual's major life activities;

(ii) A record of such an impairment; or

(iii) Being regarded as having such an impairment.

- (c) "Major Life Activities" means activities that include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. These also include the operation of a major bodily function, including but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.
- (d) "Qualified Individual with a Disability" means an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the position that the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.
- (e) "Essential Functions" means the fundamental job duties of an employment position. A function can be essential if, among other things, the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized, and the individual is hired based on his or her ability to perform it. This term does not include the marginal functions of the position.
- (f) "Undue Hardship" means a specific accommodation would require significant difficulty or expense. Determination of undue hardship is made on a case-by-case basis, considering factors that may include, but not be limited to, the nature or cost of the accommodation needed and the impact of the accommodation on the operations of the office or agency.

(4) Request for Reasonable Accommodation

- (a) An employee may request a reasonable accommodation from his or her appointing authority or designee or the ADA Coordinator either verbally or in a written request.
- (b) A verbal request for an accommodation must be confirmed in writing by the employee within seven calendar days by completing form AOC-ADA-1, Request for Accommodation Under the Americans with Disabilities Act (ADA). An employee must submit the completed form to his or her appointing authority or designee for authorization. The employee must then submit the authorized form AOC-ADA-1 to the ADA Coordinator.
- (c) When an employee has requested a reasonable accommodation and if both

the disability and the need for accommodation are obvious, it may not be necessary for the KCOJ to seek medical information regarding the employee's medical condition and the effect of that condition on performing the essential functions of the job. However, the KCOJ reserves the right to determine through appropriate means whether the employee can perform the essential functions of the job with or without a reasonable accommodation.

- (d) When an employee has requested a reasonable accommodation and the disability or need for accommodation is not obvious, the KCOJ will request medical information to determine if the employee is a qualified individual with a disability as defined by the ADA.
- (e) To obtain the necessary medical information, the ADA Coordinator will contact the employee and request the employee complete form AOC-PER-5.1, Authorization to Release Medical Information, and fax, email, or mail the completed form to the ADA Coordinator within 15 calendar days of the date of the request.
- (f) The ADA coordinator will also contact and request the employee's appointing authority or designee complete form AOC-ADA-5, Kentucky Court of Justice Essential/Marginal Duties Form, and fax, email, or mail the completed form to the ADA Coordinator within 15 calendar days of the date of the request.
- (g) Upon receipt of the completed form AOC-PER-5.1 and form AOC-ADA-5, the ADA Coordinator will send correspondence by certified mail to the employee's licensed health care provider.
 - (i) In addition to explaining the purpose of the correspondence, it will also request the employee's licensed health care provider use form AOC-ADA-2, Request for Accommodation Medical Report, to:
 - a. Describe the employee's medical condition;
 - b. Explain the effect of the medical condition on the performance of the essential functions of the employee's job; and
 - c. Recommend accommodation(s) that would enable the employee to perform those essential functions.
 - (ii) To assist the licensed health care provider with assessing the employee's request for an accommodation, the ADA Coordinator will include with the correspondence form AOC-ADA-1 and form AOC-PER-5.1 completed by the employee, the employee's Job Description, form AOC-ADA-5 completed by the employee's appointing authority or designee, and form AOC-ADA-2.
- (h) Medical information obtained in connection with the reasonable accommodation process will be kept confidential and placed in a file separate from the employee's personnel file.

- (i) The employee's failure to provide appropriate documentation or to cooperate with the efforts of the ADA Coordinator to obtain such documentation may result in denial of the reasonable accommodation.
- (5) Disability Determination and Need for a Reasonable Accommodation
- (a) Before addressing the merits of the accommodation request, the ADA Coordinator, using form AOC-ADA-4, Kentucky Court of Justice Reasonable Accommodation Decision Guide, must first determine whether the employee is a qualified individual with a disability under the ADA.
 - (b) If the ADA Coordinator reasonably believes that the employee is a qualified individual with a disability, the ADA Coordinator will work with the employee to identify potential reasonable accommodations. The ADA Coordinator must determine and document on form AOC-ADA-4:
 - (i) Whether the accommodation is needed;
 - (ii) The effectiveness each potential accommodation would have in enabling the employee to perform the essential functions of the position;
 - (iii) Whether the requested accommodation is effective and whether providing the accommodation would pose an undue hardship on the office or agency;
 - (iv) Whether there would be an alternative accommodation that would not pose an undue hardship on the office or agency;
 - (v) If there is no alternative accommodation, whether there is an equivalent vacant position for which the employee is qualified and may be reassigned, unless to do so would pose an undue hardship on the office or agency; and
 - (vi) If there is no vacant equivalent position, whether there is a vacant lower-level position for which the employee is qualified and may be reassigned, unless to do so would pose an undue hardship on the office or agency.
- (6) Notification to Grant or Deny Reasonable Accommodation Request
- (a) The HR Director or designee must provide the employee with written notification and an explanation of the decision to grant or deny the request.
 - (b) The reasonable accommodation granted may not be the accommodation requested by the employee. The HR Director or designee has the ultimate discretion to choose among effective accommodations. If the reasonable accommodation cannot be provided immediately, the HR Director or designee must inform the employee when it will be provided.

- (c) If a reasonable accommodation request is denied and the employee is not satisfied with the result, the employee may request a reconsideration of the decision to the AOC Director's Office or file a complaint with the Equal Employment Opportunity Commission (EEOC), the Kentucky Commission on Human Rights, or the applicable local human rights commission.

(7) Service Animals

- (a) An employee who has a disability and is requesting an accommodation for use of a service animal may request an accommodation following the procedure identified under Section 3.05(4) of these Policies. All service animals must be registered with the AOC HR Department.
- (b) For purposes of Section 3.05(7) of these Policies and as otherwise designated within these Policies, "service animal" is defined, consistent with the ADA, as a dog that has been individually trained to work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals to an impending seizure or protecting individuals during one, and alerting individuals who are hearing impaired to intruders, or pulling a wheelchair and fetching dropped items.
- (c) All service animals must be licensed, registered, and/or vaccinated in compliance with any statute, administrative regulation, or local ordinances. Service animals must wear a tag displaying its vaccinated status. Service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents them from using these devices, in which case the individual must maintain control of the animal through voice, signal, or other effective controls.
- (d) The service animal's handler must be in complete control of the service animal at all times. The care and supervision of a service animal is solely the responsibility of its handler. An individual who brings a service animal into the workplace is completely and solely liable for any injuries or damage to property caused by the animal. Any repair or cleaning costs incurred by a service animal will be charged to the handler.
- (e) All service animals and their respective handlers are expected to exhibit reasonable behavior while in the workplace. The service animal must be properly groomed and maintained so as to avoid disruption to others in the workplace. In addition, if a service animal is out of control and the handler does not take effective action to control it, the service animal may be excluded.

SECTION 3.06 Pregnancy-Related Accommodations

- (1) The Pregnancy Discrimination Act of 1978, Kentucky Pregnant Workers Act ("KPWA"), and the Pregnancy Workers Fairness Act ("PWFA") (collectively referred to as "pregnancy rights laws") prohibit discrimination due to pregnancy, childbirth, or a related medical condition of an employee or elected or appointed official.

(2) The ADA Coordinator processes requests for reasonable accommodations due to pregnancy, childbirth, or a related medical condition, and ensures reasonable accommodations are provided in a prompt, fair, and efficient manner.

(3) Definitions

The following definitions apply to Section 3.06 of these Policies:

- (a) "Essential Functions" has the same meaning as provided in Section 3.05(3)(e) of these Policies.
- (b) "Reasonable Accommodation" means providing modifications or adjustments including providing more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, appropriate seating, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, modified work schedule, and private space that is not a bathroom for expressing breast milk.
- (c) "Related Medical Condition" includes but is not limited to lactation or the need to express breast milk for a nursing child and has the same meaning as in the Pregnancy Discrimination Act, 42 U.S.C. sec. 2000e(k).
- (d) "Undue Hardship" has the same definition provided in Section 3.05(3)(f) of these Policies and in addition, includes the following factors:
 - (i) The duration of the requested accommodation(s); and
 - (ii) Whether similar accommodations are required by policy to be made, have been made, or are being made for another employee due to any reason.

(4) Request for a Reasonable Accommodation

- (a) An employee may request a reasonable accommodation from his or her appointing authority or designee either verbally or by completing form AOC-KPWA-1, Employee Request for an Accommodation Under Kentucky Pregnant Workers Act (KWPA). Upon receipt, the appointing authority or designee must submit the request and the completed form to the ADA Coordinator.
- (b) A verbal request for an accommodation must be confirmed in writing by the employee within seven calendar days by completing form AOC-KPWA-1. An employee must submit the completed form to his or her appointing authority or designee.
- (c) When the need for an accommodation under the pregnancy rights laws is obvious, the KCOJ will not seek any further documentation or information. If the need for an accommodation is not obvious, the KCOJ may ask the employee for reasonable documentation related to the accommodation request.

- (d) Medical information obtained with the reasonable accommodation process will be kept confidential and placed in a file separate from the employee's personnel file.
- (5) Determination of Pregnancy-Related Accommodation Request
- (a) The ADA Coordinator will engage in a timely, good faith, and interactive process to determine effective reasonable accommodations.
 - (b) The ADA Coordinator will consider the following when evaluating a request for an accommodation:
 - (i) The effectiveness each potential accommodation would have in enabling the employee to perform the essential functions of the position; and
 - (ii) If the requested accommodation is effective, whether providing the accommodation would pose an undue hardship on the office or agency.
 - (c) An employee will not be required to take leave from work if another reasonable accommodation can be provided.
- (6) Notification of an Accommodation Decision
- (a) The HR Director or designee must provide to the employee, and the employee's appointing authority or designee, a written notification and explanation of the accommodation decision.
 - (b) The reasonable accommodation granted may not be the accommodation requested by the employee. The HR Director or designee has the ultimate discretion to choose among effective accommodations. If the reasonable accommodation cannot be provided immediately, the HR Director or designee must inform the employee when it will be provided.
 - (c) If a reasonable accommodation request is denied and the employee is not satisfied with the result, the employee may request a reconsideration of the decision to the AOC Director's Office or file a complaint with the Kentucky Commission on Human Rights, or the applicable local human rights commission.

SECTION 3.07 Drug- and Alcohol-Free Workplace

- (1) In accordance with the federal Drug-Free Workplace Act of 1988, elected officials, appointed officials, and employees are prohibited from manufacturing, distributing, dispensing, unlawfully possessing, or unlawfully using a controlled substance in the workplace.
- (2) Drug-Free Awareness

The Chief Justice delegates to the AOC Director the responsibility to inform

employees and officials about:

- (a) The dangers of drug abuse in the workplace;
- (b) The KCOJ's policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (d) The penalties that may be imposed upon employees and officials for drug and alcohol abuse violations.

(3) Definitions

For the purpose of Section 3.07 of these Policies and as otherwise designated within these Policies, the following definitions shall apply:

- (a) "Controlled Substance" means a controlled substance in Schedules I through V of 21 U.S.C. § 812 or KRS Chapter 218A.
- (b) "Conviction" means the finding of guilt (including a plea of nolo contendere), an imposition of sentence, or both, by a judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.
- (c) "Impaired by alcohol" means a person has an alcohol concentration equal to or greater than .04 or diminished motor functioning attributable to the person's consumption of alcohol.
- (d) "Impaired by a controlled substance" means a person has a confirmed positive drug test result or diminished motor functioning attributable to the person's use of a controlled substance, which has not been validly prescribed to the person and/or used in the manner prescribed.

(4) Criminal Charges and Convictions

Employees charged or convicted of a criminal offense under KRS Chapter 189A, KRS Chapter 218A, KRS Chapter 506, or 21 U.S.C. § 801 et seq. must report it to their supervisor or appointing authority pursuant to Section 2.13 of these Policies.

(5) Testing

- (a) Employees may be required to submit to drug and alcohol testing based on, but not limited to, observations and behaviors in the workplace that create a reasonable suspicion that the employee is impaired by alcohol and/or a controlled substance as observed by at least two individuals, one of whom should be a KCOJ employee or official. Testing may not be warranted in situations of apparent intoxication.
- (b) The employee's supervisor or appointing authority must document the reported

observations and behaviors and determine, in consultation with the AOC HR Department, whether the observations create a reasonable suspicion that the employee is impaired by alcohol and/or a controlled substance.

- (c) All employees who are involved in a vehicle or equipment accident in the workplace are required to submit to drug and alcohol testing.
- (d) When an employee is required to submit to drug and alcohol testing, the employee's supervisor or appointing authority and the AOC HR Department will inform the employee of the basis for the testing and the requirement to undergo a drug and alcohol test within the next two hours.

(6) Prohibited Conduct and Disciplinary Actions

(a) Prohibited conduct includes:

- (i) Unlawful manufacture, distribution, dispensation, possession, facilitation, solicitation, or use of a controlled substance in the workplace;
- (ii) Being impaired by alcohol and/or a controlled substance in the workplace;
- (iii) Consumption of alcohol in the workplace or while on a paid or unpaid break;
- (iv) Inability to work efficiently and effectively because of off-duty use of a controlled substance or alcohol;
- (v) Violations of law(s) related to controlled substances or alcohol consumption;
- (vi) Failure to notify the appointing authority or supervisor of a conviction under KRS Chapter 189A, KRS Chapter 218A, KRS Chapter 506, or 21 U.S.C. § 801 et seq.; and
- (vii) Failure to submit to drug and alcohol testing when required to do so.

(b) Disciplinary Action

Any violation of this policy by an employee may result in disciplinary action, up to and including dismissal.

SECTION 3.08 Workplace Violence

- (1) KCOJ employees have the right to a safe workplace free from violence and threats of violence. Violence in the workplace will not be tolerated. The KCOJ has adopted the following guidelines to address workplace violence.
- (2) Weapon Prohibition

- (a) The KCOJ prohibits any employee from carrying a weapon, including licensed concealed weapons, into any workplace and any portion of related court spaces or buildings, places of employment, or educational sites. This does not include the legal possession of a weapon in a vehicle.
- (b) Removal of a weapon from a vehicle is prohibited while on property that is leased, owned, or reserved for use by the KCOJ.
- (c) Exceptions to Section 3.08(2)(a) of these Policies include AOC Court Security Coordinators and AOC Security Officers if it is necessary for their official duties; and Justices, Judges, and Circuit Court Clerks, including retired and senior status Justices and Judges actively serving on the bench.

(3) Workplace Violence

- (a) “Workplace Violence” means the attempt, threat, or act of intimidation, harassment, physical violence, and abuse that endangers or is likely to endanger the health and safety of KCOJ employees, including oneself, officials, or the general public while in the workplace.
- (b) A KCOJ employee is prohibited from engaging in workplace violence during his or her work hours, or when conducting KCOJ business or using KCOJ resources.
- (c) Workplace violence may be perpetrated by an elected or appointed official, a manager, supervisor, employee, or co-worker, a member of an employee’s or official’s family, or a member of the general public.

(4) Examples of Workplace Violence

Workplace violence includes, but is not limited to, the following:

- (a) Threatening to harm an official, an employee, including oneself, or a member of the general public;
- (b) Brandishing or displaying a weapon or an object that can be used as a weapon in a manner which would threaten, intimidate, or present a safety risk to an official, an employee, including oneself, or a member of the general public;
- (c) Intimidating, threatening, or harassing another person either verbally, in writing, or by gesture;
- (d) Stalking; or
- (e) Striking, slapping, or otherwise physically assaulting another person.

(5) Reporting and Investigative Responsibilities

- (a) All employees and elected and appointed officials are encouraged to be alert to

the possibility of workplace violence on the part of officials, managers, supervisors, employees, former employees, and members of the general public.

- (b) Employees must notify their appointing authority or designee as soon as possible of any acts or threats of workplace violence they have either witnessed or received. This includes any threatening statement, harassment, or behavior they have reasonable cause to believe is a potential risk to their health and safety, or to other officials, employees, or the general public. Employees should not place themselves in peril.
 - (c) In the event of an active attacker in the workplace, employees should follow the KCOJ Active Attacker Workplace Response Plan, including contacting law enforcement or 911 when it is safe to do so.
 - (d) The appointing authority or designee must use form AOC-FAC-50, KCOJ Security Incident Report, to report acts or threats of workplace violence. Form AOC-FAC-50 must be submitted to the AOC Court Security Unit via email, courtsecurity@kycourts.net, by the close of the next business day following the security incident or as soon as possible. AOC Court Security must notify the HR Director and General Counsel, or their designees, of all incidents of workplace violence.
 - (e) When necessary, the AOC Court Security Manager, in cooperation with the HR Director or designee, will coordinate and conduct an investigation of the reported acts or threats of workplace violence identified in the form AOC-FAC-50.
- (6) To maintain workplace safety and/or the integrity of an investigation, an employee may be suspended, with or without pay, pending investigation, as determined by the HR Director or designee. In all instances of suspension under Section 3.08 of these Policies, the appointing authority must submit a Personnel Action Request (PAR) to the HR Director indicating the effective dates of paid or unpaid leave.
 - (7) Any employee in violation of this policy is subject to appropriate discipline up to and including dismissal.
 - (8) Employees suspended without pay pursuant to Section 3.08(6) of these Policies may use accrued paid leave while suspended without pay.
 - (9) Suspensions without pay involving tenured employees are subject to the grievance and appeal procedures identified in Section 8 of these Policies after they return to work or final action has been taken.
 - (10) Retaliation against any person for reporting or assisting in the investigation of workplace violence is prohibited.

SECTION 4. Employee Actions, Classification, and Compensation

SECTION 4.01 Position and Employee Actions

(1) Establishment

Each appointing authority has a personnel complement. Any change to the complement must be approved by the AOC Director.

(2) Restructuring

(a) Restructuring is a position action that occurs when a position is placed in a new classification and/or pay grade based on the overall needs of the organization. The action is at the direction of the appointing authority with the approval of the AOC Director.

(b) If a position classification is assigned to a higher pay grade, employees in that classification will have their salaries raised to at least the entry salary of the new pay grade on the effective date of the change.

(c) If a position classification is assigned to a lower pay grade, employees in that classification may have their salaries adjusted to that of like positions within that pay grade.

(3) Hiring

(a) Appointment

(i) At the time of hire, employees are appointed to a tenured or non-tenured position identified in Section 4.02 of these Policies.

(ii) Probationary periods are applicable to employees appointed to tenured positions pursuant to Section 4.04 of these Policies.

(iii) Compensation is determined in accordance with the salary schedule and pay practices approved by the Supreme Court.

(iv) An employee who is receiving retirement payments through the Kentucky Public Pensions Authority prior to appointment is subject to the requirements of KRS 61.637 and is responsible for seeking approval from the Kentucky Public Pensions Authority before accepting employment with the KCOJ.

(b) Rehire

(i) Except as outlined in Section 4.01(3)(b)(ii) of these Policies, an employee who is rehired following resignation from KCOJ employment, in good standing, for reasons other than retirement, shall be appointed to a position in accordance with Section 4.01(3)(a) of these Policies.

- (ii) An employee who is rehired within six months of separating from KCOJ employment and appointed to the same tenured position and same pay grade he or she most recently held:
 - a. Will not serve a probationary period; and
 - b. Will be a tenured employee upon rehire.
- (iii) An employee who is recommended for rehire must be approved by the Chief Justice or AOC Director or their designees.

(4) Reclassification

- (a) Reclassification is a position action that occurs when a position's job duties are evaluated, and it is determined that the duties associated with the position do not accurately reflect the classification in which the position is placed.
- (b) When a permanent and material change of the job duties of a position occurs, the appointing authority or designee may submit a written request to the AOC Director or designee to reclassify the position.
- (c) Employees who are moved to a higher pay grade through a reclassification of their position will have their salary raised in accordance with pay practices approved by the Supreme Court. Any exceptions require the approval of the AOC Director.
- (d) Tenured employees who are moved to a lower pay grade through a reclassification of their position will not have their salary adjusted.

(5) Promotion

- (a) A promotion is the appointment to a different position in a higher pay grade that carries greater discretion or responsibility for the promoted employee.
- (b) Promoted employees will have their salary for the new position raised pursuant to the salary schedule and pay practices approved by the Supreme Court. Any exceptions require the approval of the AOC Director.

(6) Demotion

- (a) Involuntary Demotion
 - (i) An involuntary demotion is an employee action that occurs as a result of disciplinary action pursuant to Section 8.03 of these Policies, when a tenured or non-tenured employee is appointed to a different position in a lower pay grade that carries less discretion or responsibility for the demoted employee.

- (ii) Employees demoted involuntarily may have their salary reduced or may keep the salary received prior to the demotion if authorized in writing by the AOC Director.
- (iii) Tenured employees who are involuntarily demoted resulting in a reduced salary may exercise their appeal rights as set forth in Sections 8.05 and 8.06 of these Policies.

(b) Voluntary Demotion

- (i) A voluntary demotion is an employee action that occurs when a tenured or non-tenured employee expresses interest in writing, accepts, and is appointed to a vacant position in a different position at a lower pay grade.
- (ii) Employees who request and are voluntarily appointed to a position at a lower pay grade will have their salaries adjusted to reflect the pay grade of the new position.
- (iii) Requests for voluntary demotion are considered an application for a vacant position. Voluntary demotions are reviewed and approved at the discretion of the appointing authority or designee, following approval by the HR Director.

(7) Transfer

(a) Involuntary Transfer

- (i) An involuntary transfer is an employee action that occurs as a result of a disciplinary action pursuant to Section 8.03 of these Policies, when an employee is appointed to a different position in the same pay grade.
- (ii) Tenured employees who are involuntarily transferred may exercise their grievance rights set forth in Section 8.02 of these Policies.

(b) Voluntary Transfer

- (i) A voluntary transfer is an employee action that occurs when a tenured or non-tenured employee expresses interest in writing, accepts, and is appointed to a vacant position in the same pay grade.
- (ii) Requests for voluntary transfer are considered an application for a vacant position. Voluntary transfers are reviewed and approved at the discretion of the appointing authority or designee, following approval by the HR Director.

(8) Assignment to Special Duty

- (a) Employees may be assigned to perform duties outside of their regularly assigned duties for up to 12 months. An assignment to special duty or an extension of special duty beyond a 12-month period may only be made with prior written approval of the AOC Director or designee.
- (b) An employee who is approved for special duty to a position in a higher pay grade may have his or her salary raised to the entry salary of the pay grade for the class of the new position. Upon expiration of the special duty assignment, the salary of the employee will be adjusted to:
 - (i) The salary received prior to the assignment to special duty; and
 - (ii) Include all salary advancements and adjustments that would have been awarded if the employee had remained in his or her position prior to the assignment to special duty.
- (c) An employee who is approved for special duty to a position in the same or lower pay grade will retain the salary he or she received prior to the assignment to special duty.

SECTION 4.02 Types of Positions

- (1) Full-time position with benefits:

A full-time position with benefits, either tenured or non-tenured, is a position requiring an employee to account for 37.5 hours in a business week.

- (2) Part-time position without benefits:

A part-time position without benefits is a non-tenured position requiring an employee to work no more than 80 hours in a calendar month. The 80-hour limit may only be exceeded under extraordinary circumstances and only with prior written approval of the AOC Director. An employee in a part-time position without benefits will not be approved to work more than 99.5 hours in a calendar month.

- (3) Fee-based positions:

A fee-based position is a non-tenured position that is funded through a restricted fee-based source including, but not limited to, judicial sales, criminal histories, diversion fees, and court technology fees. A fee-based position is dependent on the source of the revenue remaining available. An employee appointed to a fee-based position will be required to sign form AOC-PER-RF01, Appointment to Fee-Based Position, prior to starting employment with the KCOJ, accepting the availability of revenue as a condition of employment. Form AOC-PER-RF01 will be submitted to the AOC HR Department.

- (4) Federally funded time-limited position:

A federally funded time-limited position is a non-tenured position created as a

result of restricted federal funding. The term of this position will not exceed the period of time for which the specific federal funding is provided. An individual who is appointed to a federally funded time-limited position may be entitled to employee benefits depending upon the number of hours worked during a business week or calendar month. Employees appointed to this position will be required to sign form AOC-PER-1.3, Appointment to Federally Funded Time-Limited Position, prior to starting employment with the KCOJ, accepting the limited time period as a condition of employment. Form AOC-PER-1.3 will be submitted to the AOC HR Department.

(5) Temporary position:

A temporary or interim position is a non-tenured position created for a specified period of time not to exceed nine months within a 12-month period. Employees appointed to temporary positions do not receive fringe benefits as set forth in Section 6 of these Policies. Interns, whether compensated or not, are appointed to temporary positions and do not receive benefits.

SECTION 4.03 Criminal Background Checks

- (1) The KCOJ supports the rehabilitation of offenders. However, certain convictions may render a person ineligible for employment in certain positions.
- (2) Form AOC-PER-1.4, Employment Record Check Authorization, must be provided to an applicant for completion during his or her interview and submitted by the appointing authority or designee following a contingent offer of employment.
- (3) An AOC Statewide Criminal Background Check must be obtained and reviewed by the appointing authority or designee and submitted to the AOC HR Department.
- (4) As applicable to the position or the applicant, the appointing authority may request the AOC HR Department obtain a background check that extends beyond the scope of the AOC Statewide Criminal Background Check. If approved by the AOC HR Department, the results must be reviewed by the appointing authority or designee and submitted to the AOC HR Department.
- (5) The AOC HR Department determines whether an applicant is able to perform all functions of the position applied for based upon the background check findings. If an applicant is unable to perform any function of the job because of the background check findings, the applicant will be disqualified from serving in that position.
- (6) Pursuant to AOC departmental policies or procedures or KCOJ office policies, the appointing authority or designee may request periodic background checks for his or her employees to ensure they are properly reporting violations pursuant to Section 2.13 of these Policies and to verify that there are no unreported violations that may create a conflict of interest. The HR Director or designee must be consulted prior to the administration of any resulting disciplinary action.

SECTION 4.04 Probationary Period for Employees Appointed to Tenured Positions

(1) Probationary Period

- (a) The purpose of a probationary period is to observe, evaluate, and determine whether an employee appointed to a tenured position adequately performs the official duties of the particular position in accordance with these Policies.
- (b) Length of Probationary Period
 - (i) The first six months of service from the effective date of appointment constitutes a probationary period for all employees appointed to a tenured position. This probationary period may be extended under the provisions of Section 4.04(1)(b)(ii) and (iii) of these Policies.
 - (ii) If an employee serving a probationary period is granted leave in excess of 10 working days, the employee's probationary period may be extended for the same length of time.
 - (iii) The appointing authority or designee may extend an employee's probationary period for up to six months if further evaluation is required. The appointing authority or designee must notify the employee in writing, stating the length of the probationary extension and the expectations of performance improvement during the extended period. A copy of the notification will be sent to the AOC HR Department with a PAR extending the probation and placed in the employee's official personnel file.
 - (iv) If an employee serving a probationary period transfers to a different tenured position in the same classification and pay grade, with a new appointing authority or designee, the probationary period begins anew.
- (c) Expiration of Probationary Period
 - (i) Prior to the expiration of the probationary period, the appointing authority or designee must determine whether the employee will become a tenured employee, or the probationary period will be extended.
 - (ii) The probationary period will be considered successfully completed unless the appointing authority or designee notifies the employee that he or she is dismissed or that the probationary period will be extended. This notification must take place prior to the expiration of the probationary period.
 - (iii) Upon completion of the probationary period, an employee will become a tenured employee with grievance and appeal rights and

receive a salary increase pursuant to the pay practices approved by the Supreme Court.

- (iv) If an employee is dismissed before the expiration of the probationary period, the appointing authority or designee must comply with Section 8.04 of these Policies.

(2) Current Employees

- (a) Any current employee of the KCOJ who is promoted or transferred to a tenured position must serve a probationary period as described in Section 4.04(1) of these Policies. The first six months of service from the effective date of the promotion or transfer and any extensions as provided for in Section 4.04(1)(b) of these Policies will constitute the probationary period, during which time an employee will not have grievance or appeal rights.
- (b) Any current tenured employee of the KCOJ who has successfully completed a probationary period, received a salary increase pursuant to the pay practices approved by the Supreme Court, and is subsequently transferred or promoted to a different tenured position is not entitled to a second salary increase upon completion of probation.

SECTION 4.05 Classification Plan

- (1) For each tenured position, the KCOJ classification plan includes a job title, pay grade, description of duties and responsibilities, and requirements relating to education and experience.
- (2) Every position must be assigned to an appropriate KCOJ classification plan prior to taking any administrative action on appointments, reclassifications, promotions, demotions, transfers, or any other type of position or employee actions.

SECTION 4.06 Compensation Plan

- (1) The KCOJ compensation plan provides pay grades for all tenured positions listed in the KCOJ classification plan. Each class of positions is assigned to a pay grade depending upon the complexities and functions of the positions in the class as outlined in the KCOJ classification plan.
- (2) Pay grades are based upon the level of duties and responsibilities of position classifications, current salary rates in other sectors of employment, and the financial resources of the KCOJ.

SECTION 4.07 Salary Schedule

- (1) The salary schedule is divided into pay grades, with an entry salary for each pay grade.

- (2) The appointing authority or designee must appoint a new employee at the pay grade designated for that position pursuant to the salary schedule and pay practices approved by the Supreme Court. Any deviation from the salary schedule or the pay practices approved by the Supreme Court must be submitted in writing to the AOC Director, who will have the final approval.

SECTION 4.08 Layoffs

An employee of the KCOJ may be laid off whenever deemed necessary pursuant to a KCOJ Layoff Policy approved by the Supreme Court for reasons including, but not limited to, shortage of funds or work, abolishment of positions, or a material change in duties or organization.

SECTION 4.09 Furloughs

A furlough is the placing of an employee in a temporary, non-duty, non-pay status because of lack of work, lack of funds, or other non-disciplinary reasons. An employee of the KCOJ may be furloughed whenever deemed necessary by the Supreme Court.

SECTION 5. Workplace Regulations

SECTION 5.01 Minimum Age of Employment

No appointing authority or designee in the KCOJ may employ a minor.

SECTION 5.02 Hours of Business and Work Time

- (1) Business office hours may vary according to specific offices and work assignments. The appointing authority or designee will discuss exact business hours and work schedules with each employee.
- (2) The business week for permanent full-time employees is 37.5 hours.
- (3) Employees may not work any hours in excess of the prescribed hours of duty unless authorized by the appointing authority or designee.
- (4) Employees will not work seven consecutive days in any business week unless the employee receives prior written authorization from the appointing authority or designee. The KCOJ business week is Sunday through Saturday.
- (5) Employees working seven consecutive days in any single business week will be compensated at the rate of time and one-half for all hours worked on the seventh day if they have worked at least 40 hours during that week.
- (6) Part-time employees must work 80 hours or less within a calendar month and cannot exceed this amount except under extraordinary circumstances and only with prior written approval from the AOC Director or designee, or the HR Director. An employee in a part-time position will not be approved to work more than 99.5 hours in a calendar month.
- (7) All employees must be permitted a reasonable unpaid break for a meal no sooner than the third nor later than the fifth hour of work unless the employee and appointing authority or designee have mutually agreed on an alternative arrangement.
- (8) All employees must be permitted a paid 10-minute rest period during each four hours worked as prescribed by law.
- (9) Compensatory Time
 - (a) The appointing authority or designee must comply with the compensatory leave provisions of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 et seq., and the Kentucky Wages and Hours Law, KRS Chapter 337. An employee who works more than 37.5 hours per week must receive compensatory time subject to the provisions of the FLSA, the Kentucky Revised Statutes, and these Policies.

- (b) An employee who is authorized to work in excess of the prescribed hours of duty will receive compensatory time as follows:
 - (i) On an hour-for-hour basis for hours worked in excess of 37.5 hours and up to 40 hours during the business week; and
 - (ii) One and one-half hours for every hour worked during the business week in excess of 40 hours.
- (c) No employee will be permitted to work in excess of 12 hours in one day without prior approval from the appointing authority or designee.
- (d) Compensatory time earned will be retained, used, and paid as compensatory leave as outlined in Section 7.04 of these Policies.

SECTION 5.03 Payroll

- (1) The KCOJ is required by law to make specific deductions from payroll checks. The mandatory deductions are federal, state, and local taxes; Federal Insurance Contribution Act (FICA) tax; state retirement, if applicable; and court-ordered deductions.
- (2) Additional deductions may be requested in writing to the AOC HR Department or via electronic enrollment.
- (3) Payroll dates are the 15th and 30th of each month unless those dates fall on a holiday or weekend, in which case the pay date will be the last business day preceding the payroll date.
- (4) All employees and elected officials must enroll in direct deposit.
- (5) An employee who has received an overpayment affecting his or her W-2 earnings, taxes, retirement contributions, and other deductions must notify the AOC of the overpayment and return it immediately. Adjustments to earnings, taxes, and other funds, including those requiring a corrected W-2, will not be made until full payment has been received.

SECTION 5.04 Timesheets

- (1) Employees are paid on an hour-for-hour basis. Each full-time, part-time, and temporary employee must accurately complete a timesheet to report the hours worked. The timesheet must be submitted within the scheduled deadline provided by the AOC HR Department. These deadlines will be scheduled in accordance with payroll pay periods.
 - (a) An employee's failure to submit a timesheet within the required period may result in future withholding of wages until hours worked can be verified and, therefore, earned.

- (b) Any employee who knowingly submits a timesheet that reflects incorrect work time is considered to have falsified records. The act of submitting and/or obtaining pay for falsified work time may result in discipline up to and including dismissal.
 - (c) Any employee who repeatedly fails to report work time according to the communicated deadline may be subject to discipline up to and including dismissal.
- (2) The appointing authority or designee must review and approve or deny the timesheet for each employee.
- (a) Appointing authorities have a duty and responsibility to ensure employee work time is in compliance with the provisions of the FLSA, the Kentucky Revised Statutes, and these Policies.
 - (b) Failure to approve an employee's timesheet may result in future withholding of that employee's wages until worked hours can be verified.
 - (c) In cases of an extended employee absence preventing the submission of a completed timesheet, the appointing authority or designee must confirm the employee's work time and report it to the AOC HR Department for payroll processing.
- (3) Elected officials do not complete or submit a timesheet.

SECTION 5.05 Absences or Closures Due to Inclement Weather

- (1) When inclement weather conditions prevent an employee from reporting to work at the normal time or when an employee decides not to report for work or to leave work early due to weather conditions, the following apply:
- (a) Employees may be directed to perform official duties at another location.
 - (b) Employees must use accrued annual and/or compensatory leave for a late arrival, missed workday, or early departure.
 - (c) If an employee does not have sufficient annual and/or compensatory leave to cover his or her absence, the employee may choose one of the following options:
 - (i) The employee may take leave without pay for the late arrival, missed workday, or early departure; or
 - (ii) If operational needs allow, appointing authorities should make every reasonable effort to arrange schedules to allow

employees to make up time not worked. An employee has four months from the occurrence of the absence to make up any time missed due to inclement weather. At the end of the four-month period, any time missed due to inclement weather will be deducted first from available compensatory leave and then from available annual leave. If the employee has no compensatory or annual leave available, the employee will have the missed time charged to leave without pay. If the employee transfers to another branch of government or is no longer employed by the KCOJ before the missed time is made up, the missed time will be deducted first from available compensatory leave and then from available annual leave or deducted from the employee's final pay.

- (2) Any employee who is scheduled off work on annual leave, compensatory leave, or sick leave that was arranged prior to the inclement weather must use the leave as originally approved.
- (3) The Chief Circuit Judge may, after conferring with the Chief District Judge and the Circuit Court Clerk, decide to close a court facility, either a courthouse or judicial center, due to inclement weather. If the Chief Circuit Judge closes a court facility, the following applies:
 - (a) Employees may be directed to perform official duties during the closure.
 - (b) Employees must account for any time missed as provided under Section 5.05(1)(b)-(c) of these Policies.
 - (c) If a court facility is closed by the Chief Circuit Judge, AOC personnel whose workstations are located in the closed court facility shall notify their appointing authority or designee to determine if they should report to an alternate workstation or work remotely.
 - (d) Nothing in Section 5.05(3) of these Policies shall preclude an individual Judge within a circuit from holding court in instances of inclement weather. If a judge holds court when a court facility has been closed due to inclement weather, the Circuit Court Clerk shall have the sole responsibility for providing staff from his or her office.
- (4) The AOC will make every effort to remain open during regular business hours. The AOC Director or designee may, after consulting with the Chief Justice, close an AOC facility if inclement weather prevents or limits access to it. If the AOC Director closes an AOC facility due to inclement weather, the following applies:
 - (a) Employees may be directed to perform official duties during the closure.
 - (b) Employees whose assigned workstation is in the closed AOC facility

must account for any time missed as provided under Section 5.05(1)(b)-(c) of these Policies.

SECTION 5.06 Closures Unrelated to Weather

(1) AOC Facilities

- (a) The AOC will make every effort to remain open during regular business hours. The AOC Director or designee may, after consultation with the Chief Justice, close an AOC facility if extraordinary circumstances other than inclement weather prevent or limit access to the AOC facility.
- (b) If the AOC Director or designee closes an AOC facility due to extraordinary circumstances, the following applies:
 - (i) Employees may be directed to perform official duties during the closure.
 - (ii) Full-time and part-time employees will be approved to use special leave for a maximum of 7.5 hours, less any hours actually worked, for each day the AOC facility is closed. Part-time employees may only use special leave for the hours they were scheduled to work on the day the AOC facility is closed.
 - (iii) Any employee who is on paid or unpaid leave that was arranged prior to the closure must use the leave as originally requested.

(2) Court Facilities (Courthouses and Judicial Centers)

- (a) The courts of the Commonwealth are open to the public during business hours every day except as noted in the holiday schedule in Section 6.02 of these Policies. However, extraordinary circumstances other than inclement weather may render use of a court facility impractical or impossible, thus necessitating closing the court facility.
- (b) The Chief Circuit Judge, after conferring with the Chief District Judge and the Circuit Court Clerk, will decide whether a court facility will be closed in the circuit.
- (c) If the Chief Circuit Judge closes a court facility due to an extraordinary circumstance other than inclement weather:
 - (i) Employees may be directed to perform official duties during the closure.
 - (ii) Full-time and part-time employees will be approved to use special leave for a maximum of 7.5 hours, less any hours actually worked, for each day the court facility is closed. Part-time

employees may only use special leave for the hours they were scheduled to work on the day the court facility is closed.

- (iii) Any employee who is on paid or unpaid leave that was arranged prior to the closure must use the leave as originally requested.
 - (iv) The Chief Circuit Judge must notify the AOC HR Department, in writing within two business days of the date, time, location, and reason for the closure. Failure to properly notify the AOC HR Department will result in the loss of special leave for employees.
- (d) Nothing in Section 5.06(2) of these Policies shall preclude an individual Judge within a circuit from holding court in instances of extraordinary circumstances. If a judge holds court when a court facility has been closed due to extraordinary circumstances, the Circuit Court Clerk shall have the sole responsibility for providing court staff from his or her office.
- (e) If a court facility is closed by the Chief Circuit Judge, AOC personnel whose workstations are located in the closed court facility shall notify their appointing authority or designee to determine whether they should report to an alternate workstation or work remotely. Only the AOC Director or designee may approve use of special leave by an AOC employee due to the closure of a court facility.

SECTION 5.07 Tenured Employee Evaluations

- (1) The appointing authority or designee may conduct an annual written evaluation for each tenured employee. The employee must be provided a copy of the evaluation upon completion.
- (2) If electing to conduct annual written evaluations, they must be completed without bias or prejudice based on the protected classes as identified in Section 3.02(3)(a) of these Policies.
- (3) The appointing authority or designee should review and discuss the evaluation with the employee. The employee must sign the evaluation and be given the opportunity to provide a written response.
- (4) The appointing authority or designee must forward the signed evaluation and the employee's written response, if any, to the AOC HR Department for filing in the employee's official personnel file. Employee evaluations are not subject to the grievance or appeal procedures set forth in Section 8 of these Policies.

SECTION 5.08 Personnel Files

- (1) General

- (a) The official personnel files of the KCOJ are open to public inspection only as provided below.
- (b) The official personnel files will be maintained by the AOC HR Department.
 - (i) Each elected official and employee will have an official personnel file.
 - (ii) Certain appointed officials may have an official personnel file maintained for the limited purpose as required by law.
 - (iii) Official personnel files will not be removed from the AOC HR Department unless required by court order.

(2) Official Personnel Files

- (a) Each employee's official personnel file will include, but not be limited to, information regarding his or her name and name changes; address and address changes; title of positions held; classifications; and rates of compensation, including any documentation related to any change in compensation.

The official personnel file also will include the following:

- (i) A copy of the employee's application and resumé and all changes in the employee's status, including a copy of any evaluations, promotions, demotions, layoffs, transfers, or disciplinary actions, and the employee's written responses;
 - (ii) The employee's commendations and awards;
 - (iii) A copy of all PAR forms and memoranda; and
 - (iv) A signed acknowledgment of having received the KCOJ Personnel Policies and internal policies.
- (b) All employee medical information must be forwarded to the AOC HR Department. Medical records supplied to or received by the AOC HR Department will be maintained in a separate file from the employee's official personnel file. The release or inspection of any medical records will be in strict compliance with applicable law.
 - (c) The appointing authority or designee must provide the AOC HR Department with any disciplinary actions and the employee's written response, if any, for the employee's official personnel file.
 - (d) The appointing authority or designee will have access to personnel files

of the employees and the applicants for employment in his or her office.

- (e) Upon request, an employee, former employee, or applicant shall have the right to inspect and to copy his or her official personnel file or application. Employees may comment in writing on any item in their personnel file. All comments will be made part of the official personnel file and attached to the specific record or document at issue.

(3) Inspection Procedures

- (a) An employee's request to personally inspect his or her official personnel file must be submitted to the AOC HR Department in writing.
- (b) The following information contained in personnel files may be inspected only upon valid court order:
 - (i) Information of a personal nature regarding another employee or any other person where public disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - (ii) Information that is prohibited by federal law or regulation from disclosure; and
 - (iii) Information that is prohibited or restricted from disclosure or otherwise made confidential by the statutes and court rules of this Commonwealth.

(4) Third-Party Requests

- (a) All third-party requests for employment information must be submitted in writing to the AOC HR Department and clearly identify the current or former KCOJ employee or official. In response, the AOC HR Department will release a form AOC-PER-6.5, Employee Information for Public Release (Third Party Request). Form AOC-PER-6.5 will contain only the following information:
 - (i) The employee's name;
 - (ii) The employee's dates of employment, including date of hire and separation, if any;
 - (iii) If the employee has separated from the KCOJ, the reason for separation as one of the following: resigned, retired, or dismissed;
 - (iv) A listing of all position titles the employee has held and the effective dates of each;

- (v) A listing of all classifications assigned to the employee and the effective dates of each; and
 - (vi) A listing of all rates of compensation assigned to the employee and the effective dates of each.
- (b) The AOC HR Department will provide written notice to employees and to elected or appointed officials of any third-party request for personnel information.
- (5) Personnel files or information contained therein requested by administering state agencies for the purpose of employee benefits administration, such as retirement, health insurance, and workers' compensation, will be provided to ensure continuity of benefits.

SECTION 5.09 Dress Code

- (1) Employees must dress appropriately and maintain a professional appearance during all working hours and at all functions while representing the KCOJ. Prohibited attire includes, but is not limited to, clothing exhibiting inappropriate language or graphic depiction of hate, discrimination, sexual innuendo, alcohol or drugs; flip flops or shoes made entirely of rubber or plastic; shorts or skorts of any variety or material; and excessively tight or revealing clothing.
- (2) Professional appearance is determined by the workplace setting and job duties to be performed.
- (3) Any questions or concerns about the appropriateness of an employee's appearance should be directed to the employee's appointing authority or designee.

SECTION 5.10 Work-Related Travel

- (1) All reimbursement for travel expenses incurred during the performance of official duties will be in accordance with AP Part VII, Financial Services, Section III, Reimbursement for Official Travel, available on the HR Intranet site and from the AOC HR Department.
- (2) Use of Vehicles for the Performance of Job Duties
 - (a) For purposes of Section 5.10 of these Policies and as otherwise indicated in these Policies, "vehicle" includes motor or electric vehicles and motorcycles used to travel on roadways, and a "KCOJ vehicle" is one that is leased, owned, or reserved for use by KCOJ officials and employees.
 - (b) An employee who operates or has permission to operate a vehicle in the performance of their official duties must:

- i) Have a valid and current operator's license appropriate for the class of vehicle driven;
 - ii) Operate the vehicle in a safe and professional manner, exhibiting courteous and professional driving skills at all times;
 - iii) Obey all federal, state, and local traffic laws;
 - iv) Comply with these Policies and any other policies, standards, or guidelines associated with the use of a personal or KCOJ vehicle in the performance of their job duties;
 - v) Execute any and all user agreements and/or acknowledgments associated with the use of a KCOJ vehicle;
 - vi) Be free of impairment, including but not limited to, illness, injury, fatigue, alcohol, illicit or prescribed drugs, at the time of operation;
 - vii) Refrain from using handheld devices while in a traffic lane and/or the vehicle is engaged in "Drive";
 - viii) Not permit anyone other than authorized KCOJ officials or employees to ride in or operate a KCOJ vehicle;
 - ix) Promptly and accurately report any accidents or damage involving a KCOJ vehicle in accordance with the Fleet Vehicle User Agreement and Acknowledgment; and
 - x) Promptly and accurately report to their appointing authority or supervisor any accident involving a personal vehicle that occurs while performing official duties.
- c) **Post-Accident Reporting**
Drug and/or alcohol testing may be required pursuant to Section 3.07(5) of these Policies following any accident or damage involving a vehicle that occurs while performing official duties.
- d) An employee who is expected to operate a vehicle in the performance of their official duties must immediately notify their supervisor and discontinue use of any vehicles if their operator's license becomes suspended or revoked for any reason.
- e) Authorization for an employee to use a KCOJ vehicle for the performance of their official duties may be suspended or revoked for violation of the Fleet Vehicle User Agreement and Acknowledgment.

- (f) Authorization for an employee to use a personal vehicle in the performance of their official duties may be suspended or revoked by the appointing authority or designee for failure to comply with these Policies.
- (g) Conduct resulting in the suspension or revocation of use of a vehicle in the performance of the employee's official duties may result in discipline up to and including dismissal.

SECTION 5.11 Solicitation

- (1) Employees must seek prior approval from their appointing authority or designee prior to soliciting other employees or the public for any charitable purpose in the workplace.
- (2) The appointing authority or designee may only approve employee solicitations of a charitable nature and purpose and may not approve any solicitation request that is for the personal benefit or profit of the employee.

SECTION 5.12 Animals

Except as provided under Section 3.05(7) of these Policies, animals are not permitted in the workplace.

SECTION 5.13 Tobacco Use

Tobacco use, including but not limited to cigarettes, electronic cigarettes, vapes, and smokeless tobacco products, is prohibited inside all workplaces leased, owned, or reserved for use by the KCOJ and may only be used outdoors in designated areas.

SECTION 6. Fringe Benefits

SECTION 6.01 Fringe Benefits

Employees in full-time positions, with the exception of fee-based and temporary positions, and elected officials of the KCOJ participate in fringe benefit programs provided for Kentucky state government officials and employees. These fringe benefits include but are not limited to, applicable paid leaves, paid holidays, government retirement plan, health and life insurance, and workers' compensation insurance. Employee paid leaves are outlined in Section 7 of these Policies.

SECTION 6.02 Holidays

- (1) The following days are the typical holidays observed by the KCOJ but are subject to modification by the Chief Justice.

New Year's Day	The first day of January plus one (1) additional day
Martin Luther King, Jr. Day	The third Monday in January
Spring Holiday	One half (1/2) day, to be designated
Memorial Day	The last Monday in May
Juneteenth National Independence Day	The nineteenth day of June
Independence Day	The fourth day of July
Labor Day	The first Monday in September
Presidential Election Day	The first Tuesday after the first Monday in November (when applicable)
Veterans Day	The eleventh day of November
Thanksgiving Day	The fourth Thursday in November plus one (1) additional day
Christmas Day	The twenty-fifth day of December plus one (1) additional day

- (2) Unless otherwise determined by the Chief Justice, holidays falling on a Saturday will be observed the preceding Friday and holidays falling on a Sunday will be observed the following Monday.
- (3) Each full-time employee who is in paid status the business day immediately preceding a KCOJ-approved holiday is entitled to 7.5 hours of holiday pay.
- (4) Employees scheduled to work on a holiday will receive compensatory time on an

hour-for-hour basis for each hour worked on the holiday.

- (5) Employees on leave of any kind, other than leave without pay by personnel action, will not be required to use leave for a holiday that occurs while they are on paid leave.
- (6) Holiday leave cannot be accrued as a separate leave benefit.

SECTION 6.03 Retirement

- (1) An employee who plans to retire within one year or an employee with 20 or more years of service may attend a retirement seminar or an individual retirement consultation without having to use annual or compensatory leave.
- (2) All other interested employees may attend a retirement seminar or an individual retirement consultation but must use either annual or compensatory leave for the time spent attending the seminar or consultation.
- (3) Employees must obtain permission to attend a seminar or an individual consultation from their appointing authority or designee.
- (4) Travel expenses, including mileage to and from a retirement seminar or an individual retirement consultation, will not be reimbursed.
- (5) An employee who wishes to retire with the KCOJ in good standing must notify his or her appointing authority or designee in writing at least 14 calendar days prior to the effective date of retirement. A Circuit Court Clerk who wishes to retire must notify the Chief Circuit Judge in writing and provide a copy to the Chief Justice and the AOC HR Department. A judge who wishes to retire must notify the Governor in writing and provide a copy to the Chief Justice and the AOC HR Department.
- (6) An employee who fails to notify his or her appointing authority or designee in writing at least 14 calendar days prior to the effective date of retirement may lose accrued annual leave for each day short of the 14 calendar-day notice unless waived by the appointing authority or designee. If applicable, full-time employees will lose time at the rate of 7.5 hours for each calendar day.
- (7) Following review of the employee's record of performance with the KCOJ, the HR Director or designee may designate an employee's retirement as accepted with prejudice, and the employee may not be eligible for rehire. Appropriate documentation will be maintained by the AOC HR Department.

SECTION 6.04 Health Insurance

- (1) All employees and elected officials who receive fringe benefits as described in Section 6.01 of these Policies are eligible to participate in the health insurance plan offered by the Commonwealth.
- (2) Employees will be allowed two paid hours during each open enrollment period to attend one health insurance benefit fair during normal work hours. Time off to attend a health

insurance benefit fair must be requested by the employee and authorized by the appointing authority or designee. Travel expenses, including mileage to and from the health insurance benefit fair, will not be reimbursed.

- (3) Employees and elected officials covered under a health insurance plan offered by the Commonwealth may qualify for Consolidated Omnibus Budget Reconciliation Act (COBRA) benefits. COBRA allows employees and officials to extend health insurance coverage for themselves or any qualified beneficiary if any of the following qualifying events occur:
 - (a) Dismissal, except for gross misconduct;
 - (b) Hours reduced by the employee;
 - (c) Death of a covered employee;
 - (d) Divorce or legal separation from the covered employee;
 - (e) End of dependency status of an eligible dependent; or
 - (f) Total disability granted by the Social Security Administration.
- (4) If any of the qualifying events occur, the employee, elected official, or other eligible beneficiary has 60 days from the qualifying event to apply for COBRA. To ensure timely processing, all applications should be submitted to the COBRA Carrier within 45 days of the qualifying event.
- (5) Employees who fail to meet the minimum monthly hours necessary to obtain benefits may be required to repay the state-paid portion of their health and life insurance.

SECTION 6.05 Workers' Compensation

(1) Eligibility for Program Services

Employees and elected officials of the KCOJ are eligible to participate in the state's self-insured Workers' Compensation Program, as provided in KRS Chapter 342.

(2) Benefits

(a) Medical Expenses

Required medical expenses for services provided by hospitals and doctors, and for prescription medications due to a job-related injury or illness are paid subject to approval of a claim.

(b) Absences Due to Job-Related Injury or Illness

- (i) A percentage of the employee's average weekly wages will be paid when he or she is unable to work for an extended period due to a job-related injury or illness subject to the approval of the Workers'

Compensation claim.

- (ii) Compensation will not be payable for the first seven working days of disability unless the disability continues for longer than 14 calendar days, in which case compensation will be allowed from the first day of the disability.

(c) Use of Accrued Sick, Annual, or Compensatory Leave

- (i) In cases of absence for six days or less due to illness or injury for which Workers' Compensation benefits are received, an employee may choose to use accrued sick, annual, or compensatory leave in order to maintain regular full salary.
- (ii) In cases of absence for seven days or more due to illness or injury for which Workers' Compensation benefits are received, sick leave may be used to make up the difference between the benefits and the employee's regular salary.
- (iii) If an employee is eligible for leave restoration under Workers' Compensation benefits, the employee must sign over any Workers' Compensation benefits to the AOC and have their leave restored before being eligible to receive leave under Section 6.05 of these Policies.

(3) Notification Procedures

(a) Employee Responsibility

Employees who have sustained an on-the-job injury or work-related illness must notify their appointing authority or supervisor as soon as possible after the happening thereof.

(b) Appointing Authority or Designee Responsibilities

- (i) The appointing authority or designee must obtain all pertinent information about an employee's work-related injury or illness and immediately report the injury to the AOC HR Department. If the injury occurs during the evening hours or over the weekend, the injury must be reported by phone at the beginning of the next working day.
- (ii) The appointing authority or designee shall complete the First Report of Injury or Illness Form, providing specific information about the injury. The form must be submitted to the AOC HR Department within three working days after receiving notification of an injury or illness.

(4) Form Completion

(a) Employee Responsibilities

If the employee intends to seek medical treatment, the employee must request and complete the Medical Waiver and Consent Form and return it to the AOC HR Department.

(b) Appointing Authority or Designee Responsibilities

The appointing authority or designee is responsible for completing the First Report of Injury or Illness Form when an employee sustains a work-related injury or illness and submitting that information to the AOC HR Department.

SECTION 6.06 Kentucky Employee Assistance Program

(1) General

- (a) The Kentucky Employee Assistance Program (KEAP) is available to assist employees with problems that affect their job performance, personal life, or general well-being.
- (b) The KCOJ is not liable for counseling or treatment costs except for those provided through health benefits. KEAP services for information, assessment, and referral are free of charge to all employees and their families.
- (c) Employee involvement in KEAP will remain confidential as required by state and federal law unless the employee provides a written authorization to release the information.
- (d) KEAP may be contacted at 502-564-5788 or 800-445-5327. To learn more about KEAP services, visit <https://personnel.ky.gov/Pages/KEAP.aspx>.

(2) Eligibility for Services

- (a) Any employee whose job performance is or may be adversely affected by personal problems may initiate a request for confidential personal or family services from KEAP.
- (b) Any employee obtaining services from KEAP shall do so without discrimination or retaliation.
- (c) An employee's participation in KEAP will not prohibit an appointing authority or designee from taking action to resolve unprofessional behavior or job performance deficiencies.

(3) Referrals

- (a) The appointing authority or designee may offer an employee assistance through KEAP if the employee's behavior or work performance is unacceptable or worsening.
- (b) An employee's participation in KEAP services will be voluntary and confidential.

- (c) An employee may receive an assessment or referral from KEAP during working hours with prior approval from his or her appointing authority or designee.
- (d) An employee's participation in counseling or treatment must take place on the employee's time or while on approved leave.

SECTION 7. Leave Policies

SECTION 7.01 Months of Service

Only those months for which an employee has worked or been on paid leave for at least 100 hours will be eligible for computing months of service for the purpose of earning annual or sick leave. An employee must be employed for one full calendar month to be eligible to accrue a month of service.

SECTION 7.02 Annual Leave

(1) Accrual of Annual Leave for Full-Time Employees

Full-time employees earn annual leave at the following rates:

<u>Months (Years) of Service</u>	<u>Annual Leave Hours (Days) Accrued</u>
0-59 months (0-5 years)	7.50 hours (1 day) per month
60-119 months (5-10 years)	9.38 hours (1.25 days) per month
120-179 months (10-15 years)	11.25 hours (1.50 days) per month
180-239 months (15-20 years)	13.13 hours (1.75 days) per month
240 months & over (20+ years)	15.00 hours (2.00 days) per month

(2) Retention of Annual Leave

- (a) Annual leave may be accrued and carried forward from one calendar year to the next, not to exceed:

<u>Months (Years) of Service</u>	<u>Maximum Annual Hours (days)</u>
0-59 months (0-5 years)	225 hours (30 days)
60-119 months (5-10 years)	277.5 hours (37 days)
120-179 months (10-15 years)	337.5 hours (45 days)
180-239 months (15-20 years)	390 hours (52 days)
240 months & over (20+ years)	450 hours (60 days)

- (b) Accrued annual leave in excess of the above maximum amounts will be converted to sick leave at the end of each calendar year or upon the employee's separation from employment, if applicable.

(3) Use of Annual Leave

- (a) An employee must obtain approval from his or her appointing authority or designee prior to the use of annual leave, except as noted in Section 7.02(3)(c) of these Policies.
- (b) Use of annual leave will be granted by the appointing authority or designee based on operating requirements and, if possible, as requested by the employee. However, if an employee has accrued 120 or more hours of

compensatory leave at the time the approved leave is used, the approved annual leave will first be designated as compensatory leave. See Section 7.04 of these Policies.

- (c) Absence due to sickness, injury, or disability that exceeds an employee's accrued sick leave balance may be charged against annual leave.
- (d) An employee may use annual leave for any absence on a day in which the employee would otherwise work and receive pay.
- (e) Absence for part of a workday that is used as annual leave must be reported in 15-minute increments (.25 hours).

(4) Payment of Unused Accrued Annual Leave

- (a) Employees in good standing will be paid in a lump sum for annual leave, not to exceed the maximum amounts set forth in the table under Section 7.02(2)(a) of these Policies, when separated from employment by resignation, layoff, dismissal, or retirement.
- (b) Elected officials who accrued annual leave prior to being sworn into elected office will be paid for their unused annual leave at the time they take office.
- (c) Upon the death of an employee, his or her estate will be entitled to payment for the unused portion of the employee's annual leave.
- (d) An employee separated from employment by layoff will be entitled to payment for the entire unused portion of the employee's annual leave.

SECTION 7.03 Sick Leave

(1) Accrual of Sick Leave

- (a) Permanent full-time employees accrue sick leave at the rate of 7.5 hours per month. Permanent full-time employees must work or be on paid leave for at least 100 hours in a month in order to accrue sick leave.
- (b) Permanent full-time employees who complete 120 months, or 10 years, of total service in Kentucky state government will accrue an additional 75 hours of sick leave on the first day of the month following completion of 120 months of service.
- (c) Permanent full-time employees who complete 240 months, or 20 years, of total service in Kentucky state government will accrue another 75 additional hours of sick leave upon the first day of the month following completion of 240 months of service.
- (d) Sick leave may be accrued with no set maximum.

(2) Retention of Sick Leave

- (a) Employees transferring to the KCOJ from another branch of state government will be credited with their accrued sick leave after submitting the appropriate documentation to the AOC HR Department.
- (b) Upon retirement, an employee will be credited for sick leave in accordance with the state retirement system's regulations and policies.
- (c) Upon resignation, layoff, or dismissal, sick leave will not be paid out.
- (d) Former employees who are reinstated or rehired will have their unused sick leave balances restored, with the exception of employees retired from a state position within the Kentucky Public Pensions Authority.

(3) Use of Sick Leave

- (a) Except in cases of emergency or unforeseen illness, employees must request approval to use sick leave in advance, including but not limited to, medical, dental, or optical examinations.
- (b) Employees must notify their immediate supervisor or designee as soon as possible in the event of an emergency or unforeseen illness.
- (c) An appointing authority or designee will grant the use of sick leave when an employee:
 - (i) Is unable to work due to medical, dental, or optical examination or treatment;
 - (ii) Is sick or injured;
 - (iii) Is required to care for or transport a member of his or her family in need of medical attention;
 - (iv) Would jeopardize the health of himself or herself or others at his or her workstation because of exposure to a contagious disease or demonstration of behavior that might endanger the employee or others; or
 - (v) Experiences the death of a member of his or her family or other relatives of close association as outlined under Section 7.10 of these Policies.
- (d) The appointing authority or designee may require the employee to provide a treatment provider's statement certifying the employee's need to use sick leave. Failure to provide a treatment provider's statement when requested may result in unauthorized leave without pay and/or discipline up to and including dismissal.

- (e) Upon returning to work from use of sick leave, the appointing authority or designee must return the employee to his or her former position.
- (f) Absence for part of a workday that is being used as sick leave must be reported in 15-minute increments (.25 hours).
- (g) In cases of absence due to illness or injury for which Workers' Compensation benefits are received for lost time, sick leave may be used to make up the difference between the benefits and the employee's regular salary.
- (h) Even if a request for family and medical leave is not submitted pursuant to Section 7.05(3) of these Policies, an employee's absence from work may be designated by the AOC HR Department as family and medical leave if the appointing authority or designee or AOC HR Department has sufficient information that the employee is otherwise eligible for family and medical leave pursuant to Section 7.05(2)(a)-(h) of these Policies. Neither the employee nor the KCOJ may decline or delay a family and medical leave designation once an eligible employee has communicated a need to take leave for a reason listed in Section 7.05(2)(b)(i-viii) of these Policies.

(4) Sick Leave Sharing

(a) General

- (i) Sick leave may be donated from one state employee to another, including employees from another branch of government. All salary and wage payments donated under Section 7.03(4) of these Policies to an employee while on sick leave will be paid by the agency employing the person who receives the donated leave.
- (ii) Requests to donate or receive sick leave must be made in writing to the AOC HR Department. The AOC HR Department will maintain records of sick leave donations and employees' receipt and use of donated sick leave.
- (iii) Hours donated through the sick leave sharing program are to be used only for long-term, continuous absences. Sick leave sharing hours may not be used for intermittent absences.
- (iv) An employee on shared sick leave will receive the same benefits as an employee on regular sick leave as described in Section 7.03(3) of these Policies.
- (v) The AOC HR Department may require an employee receiving sick leave sharing to provide initial and periodic medical certifications from his or her treating physician or advanced practice registered nurse showing the employee's continued need for sick leave due to an inability to perform the essential functions of his or her work duties.

- (vi) No employee shall directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute sick leave when authorized under Section 7.03 of these Policies. For the purpose of Section 7.03(4) of these Policies, "intimidate, threaten, or coerce" includes, but is not limited to, promising to give or giving a benefit or affecting or threatening to affect any reprisal.
- (b) Responsibilities of Employee Requesting Sick Leave Sharing
- (i) An employee requesting sick leave sharing must complete and submit form AOC-PER-7.03(4), Sick Leave Sharing Recipient Form, to his or her appointing authority or designee for approval and signature. The appointing authority or designee will submit form AOC-PER-7.03(4) to the AOC HR Department for review and approval.
 - (ii) The AOC HR Department will send out a notification based on form AOC-PER-7.03(4).
 - (iii) An employee may receive a maximum of 1,950 hours per qualifying event.
 - (iv) The employee must return to work at the end of the approved sick leave sharing period. Before returning to work, the employee must provide a medical release from a licensed physician to the appointing authority or designee and the AOC HR Department.
 - (v) Upon receipt of the medical certification allowing the employee to return to work full time, any remaining balance of donated sick time will be returned to the donor at the end of the month.
- (c) Request to Receive Sick Leave Sharing

An appointing authority or designee, including an elected official, may permit an employee to receive donated sick leave under Section 7.03 of these Policies if:

- (i) The employee or a member of his or her family suffers from a medically-certified illness, injury, impairment, or physical or mental condition that has caused, or is likely to cause, the employee to be on leave for at least ten consecutive workdays;
- (ii) The employee's need for absence and use of leave are certified by a licensed practicing physician or advanced practice registered nurse;
- (iii) The employee has exhausted his or her sick, annual, holiday, and compensatory leave; and
- (iv) The employee has complied with these Policies regarding the use of

sick leave.

(d) Request to Donate Sick Leave

- (i) Employees who have 82.5 or more hours of sick leave may donate 7.5 or more hours of their sick leave to another employee who is authorized to receive sick leave under Section 7.03(4)(c) of these Policies. Employees donating sick leave must maintain a minimum balance of 75 sick leave hours.
- (ii) Sick leave donations to a KCOJ employee must be made by the donating employee on his or her timesheet. Sick leave donations to an employee in another branch of government must be made on form AOC-PER-7.03, Sick Leave Sharing Donor Form, and given to the appointing authority or designee for review and signature. The appointing authority or designee will forward the signed form AOC-PER-7.03 to the AOC HR Department.
- (iii) The donated sick leave will be subtracted from the donating employee's sick leave balance in the month of donation.
- (iv) An employee donating sick leave is responsible for ensuring that his or her timesheet appropriately reflects the donation. The donating employee must contact the AOC HR Department within the month of donation to correct any errors on his or her timesheet.

(5) Sick Leave Abuse

- (a) Accrued sick leave is intended as a benefit when there is a bona fide need for it, as set forth in Section 7.03(3)(c) of these Policies. The KCOJ has defined the terms for using sick leave very broadly, recognizing that there are many circumstances other than an employee's own unexpected illness when he or she might justifiably use sick leave.
- (b) An employee who abuses use of sick leave causes either a work slow-down or places an unfair strain upon co-workers who must do the work in his or her absence. In consideration for co-workers, the agency, and the people the KCOJ serves, employees should request to use sick leave only when needed and when possible, on days or at times that lessen the burden their absence will place on their co-workers.
- (c) Sick leave cannot be used for unnecessary occasions when it would be convenient for an employee to be absent. For those times, when an employee's absence does not qualify for the use of sick leave under Section 7.03(3)(c) of these Policies, the employee must request approval to use accrued annual or compensatory leave in advance of the absence. Failure to use accrued annual or compensatory leave under those circumstances constitutes abuse of sick leave.

- (d) Employees who are found to have abused sick leave may be subject to discipline up to and including dismissal.

SECTION 7.04 Compensatory Leave

(1) Retention of Compensatory Leave

- (a) The maximum amount of compensatory leave that may be accrued by an employee is 240 hours.
- (b) Accrued compensatory leave that exceeds 240 hours will be paid at the employee's hourly rate of pay during the payroll in which the overage occurred.
- (c) The appointing authority or designee may not direct or authorize an employee who has accrued 240 hours of compensatory leave to work one or more hours in excess of the prescribed hours of duty. If the appointing authority or designee exhibits a pattern of failure to comply with the requirements of Section 7.04 of these Policies without good cause, the HR Director must refer the matter to the appropriate investigative and/or disciplinary authority.

(2) Use of Compensatory Leave

- (a) An employee must obtain approval from his or her appointing authority or designee prior to the use of compensatory leave, except as noted in Section 7.04(2)(c) of these Policies.
- (b) An appointing authority or designee will grant use of compensatory leave when requested by the employee unless the employee's absence would cause an undue hardship.
- (c) Absence due to sickness, injury, or disability that exceeds an employee's accrued sick leave balance may be charged against compensatory leave.
- (d) An employee may use compensatory leave for any absence on a day in which the employee would otherwise work and receive pay.
- (e) Absence for part of a workday that is claimed as compensatory leave must be reported in 15-minute increments (.25 hours).
- (f) Employees who accrue 120 or more hours of compensatory leave must use compensatory leave instead of annual leave when a leave request is granted, with the exception of employees who have submitted their intent to retire within 12 months to the AOC HR Department.
- (g) Employees who accrue compensatory leave balances exceeding 180 hours must reduce their balances by taking approved leave as soon as administratively possible. The employee's leave must be designated as compensatory leave when the leave is used.

(h) No employee is allowed to use compensatory leave prior to the compensatory leave being accrued.

(3) Payment of Unused Accrued Compensatory Leave

(a) Employees will be paid in a lump sum for compensatory leave when separated from employment.

(b) Elected officials who accrued compensatory leave prior to being sworn into elected office will be paid for their unused compensatory leave at the time they take office.

(c) Upon the death of an employee, his or her estate will be entitled to payment for the unused portion of the employee's compensatory leave.

(d) An employee separated from employment by layoff will be entitled to payment for the entire unused portion of the employee's compensatory leave.

SECTION 7.05 Family and Medical Leave

(1) General

(a) Section 7.05 of these Policies shall be construed in a manner consistent with the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. § 2601 et seq., as amended by the National Defense Authorization Act, and 29 CFR Part 825, and any subsequent amendments.

(b) The KCOJ recognizes that FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under the Act. FMLA also makes it unlawful for any employer to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

(c) All documents relating to family and medical leave will be maintained in a file separate from an employee's personnel file and will be confidential.

(d) FMLA does not apply to elected or appointed officials.

(2) Employee Eligibility

(a) FMLA applies to employees who have:

(i) Been employed for at least 12 months; and

(ii) Worked or been in paid status at least 1,250 hours during the 12-month period immediately before the use of family and medical leave is to begin.

(b) An employee is eligible for family and medical leave if the employee:

- (i) Has a serious health condition that causes him or her to be temporarily unable to perform the essential functions of his or her position;
 - (ii) Has a child born to him or her, adopts a child, or has a child placed in his or her home for foster care;
 - (iii) Is caring for a newborn child, adopts a child, or has a child placed in his or her home for foster care, within one year of the birth, adoption, or placement;
 - (iv) Is caring for his or her parent who has a serious health condition;
 - (v) Is caring for his or her child who has a serious health condition. "Child" is defined as a biological, adopted, or foster child; stepchild; legal ward; or a child for which the employee is standing in loco parentis;
 - (vi) Is caring for his or her spouse, or person of similarly close relationship, who has a serious health condition. A person of similarly close relationship is defined as an intimate partner who has resided with the employee for at least one year prior to application;
 - (vii) Meets certain qualifying exigencies arising out of his or her spouse's, child's, or parent's deployment, covered active-duty status, or notification of an impending call or order to covered active-duty status, in or to a foreign country ("qualifying exigency leave"). Qualifying exigency leave only applies to families of members in the Armed Forces, including the National Guard and Reserves, and certain retired members of the military. Qualifying exigency leave includes short-notice deployment, certain military events, and related activities, certain childcare and school activities, addressing certain financial and legal arrangements, attending certain counseling activities, rest and recuperation, attending certain post-deployment activities, and additional purposes arising out of the call to duty, as agreed on by the employee and employer; or
 - (viii) Is caring for his or her spouse, son, daughter, parent or next of kin (nearest blood relative) who is a covered service member. A covered service member is a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness; or a veteran who was a member of the Armed Forces, including the National Guard or Reserves, at any time during the five years preceding the date on which the veteran underwent that medical treatment, recuperation, or therapy.
- (c) A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care

facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified member of the employee's family from participating in school or other daily activities.

- (d) Subject to certain conditions, the continuing treatment requirement may be met by:
 - (i) A period of incapacity of more than three consecutive calendar days that requires in-person treatment by a health care provider within the first seven days of the first day of incapacity, and:
 - a. A second visit to a health care provider within 30 calendar days of the first day of incapacity unless extenuating circumstances exist; or
 - b. A regimen of continuing treatment (i.e., prescription medication, further medical visits, etc.) under the health care provider's supervision;
 - (ii) Incapacity due to pregnancy;
 - (iii) Incapacity due to a chronic serious health condition that requires periodic visits for treatment (at least twice per year); or
 - (iv) Other conditions to the extent required by law.
- (e) A medical condition will be deemed a serious injury or illness for purposes of Section 7.05(2)(b)(viii) of these Policies if the injury or illness was incurred or aggravated in the line of active duty and causes the member to be medically unfit to perform the duties of the member's office, grade, rank, or rating, and for which the service member is:
 - (i) Undergoing medical treatment, recuperation, or therapy;
 - (ii) In outpatient status; or
 - (iii) On the temporary disability retired list.
- (f) An eligible employee as defined in Section 7.05(2)(b)(i-vii) of these Policies is entitled to 12 weeks of family and medical leave during a calendar year. An eligible employee as defined in Section 7.05(2)(b)(viii) of these Policies is entitled to 26 weeks of family and medical leave during a calendar year. Each calendar year shall start on January 1.
- (g) A week of family and medical leave will equal the amount of time an employee normally works each week.
- (h) For part-time employees, a weekly average of the hours worked during the 12

weeks before beginning family and medical leave will be used to determine their normal work week.

(3) Request for Family and Medical Leave

- (a) An employee must provide the appointing authority or designee with a request for family and medical leave at least 30 calendar days before the leave is to begin if it is foreseeable based on an expected childbirth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or a member of his or her family, or the planned medical treatment for a serious injury or illness of a covered service member.
- (b) If the employee is unable to make the request at least 30 calendar days before the leave is to begin due to a medical emergency or change of circumstances, he or she must provide the appointing authority or designee with a request for family and medical leave as soon as possible under the facts and circumstances of the particular case (generally the same day the employee learns of the need for leave or the next business day).
- (c) An employee must request family and medical leave by completing the Application for Family and Medical Leave and submitting the application to his or her appointing authority or designee absent unusual circumstances. The appointing authority or designee must immediately forward the application to the AOC HR Department.
- (d) In all circumstances, when giving notice of the need for leave, the employee must provide sufficient information for the KCOJ to determine if the leave qualifies for FMLA protection. Failure to provide sufficient notice may result in family and medical leave being delayed or denied.
- (e) Once an employee has requested family and medical leave, the AOC HR Department will inform the employee within five business days, absent extenuating circumstances, whether he or she is eligible for such leave. If the employee is eligible, the employee will be instructed as to whether any additional information is required, and as to his or her rights and responsibilities under FMLA. If the leave is not eligible, the AOC HR Department will provide at least one reason for the ineligibility.
- (f) An employee who requests family and medical leave for the purpose of tending to his or her own or a member of his or her family's serious health condition, or a seriously ill or injured covered service member, must supply a certification by a health care provider within 15 calendar days after the request for leave, using the appropriate Certification of Health Care Provider Form, which includes the following:
 - (i) The employee is in need of care;
 - (ii) The employee is needed to care for a member of his or her family; or

- (iii) The presence of the employee is necessary to the immediate family member in need of care.

The AOC HR Department will notify the employee in writing if it finds the certification incomplete or insufficient and will specify what additional information is necessary to make the certification complete and sufficient. The employee will then have seven calendar days to provide a corrected certification unless the deadline is not possible under the circumstances despite the employee's diligent and good faith efforts.

If the KCOJ has reason to doubt the validity of the certification provided, it may require the employee to obtain a second opinion from a physician selected by the KCOJ at the KCOJ's expense. If the second opinion is in conflict with the first, the KCOJ may require the employee, at the KCOJ's expense, to see a mutually agreed upon health care provider for a final and binding opinion.

Periodic recertification may be required to the extent permitted by law.

- (g) If an employee requests intermittent family and medical leave due to a serious medical condition of the employee or member of his or her family, the employee must supply a Certification of Health Care Provider Form from a licensed health care provider stating that intermittent leave is medically necessary and indicating the expected duration of the leave.

Employees taking intermittent leave must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the business of the KCOJ. To better accommodate an employee's need for intermittent leave, the KCOJ may transfer an employee to an alternate, available position for which the employee is qualified and allow the employee to maintain equivalent pay and benefits.

- (h) If the leave is to address a qualifying exigency, the eligible employee must complete a Certification of Qualifying Exigency Form, accompanied by the required supporting documentation and a copy of the covered military member's deployment and/or covered active-duty orders within 15 calendar days after the request for leave.
- (i) An employee who fails to timely complete a sufficient certification form may be denied family and medical leave and will be subject to the KCOJ's other applicable leave and/or attendance policies. Appropriate certification forms are available from the AOC HR Department.
- (j) A licensed health care provider is a:
 - (i) Doctor of Medicine;
 - (ii) Doctor of Osteopathy;
 - (iii) Podiatrist;

- (iv) Dentist;
- (v) Clinical Psychologist;
- (vi) Licensed Clinical Social Worker;
- (vii) Optometrist;
- (viii) Chiropractor;
- (ix) Nurse Practitioner;
- (x) Nurse Midwife;
- (xi) Physician's Assistant; or
- (xii) Certified Christian Science Practitioner.

(4) Approval of Family and Medical Leave

- (a) An employee who has requested family and medical leave must be notified in writing if he or she has been granted or denied family and medical leave within five business days after the AOC HR Department receives the completed and sufficient medical certification and application. At that time, the AOC HR Department will inform the employee whether the leave will be designated as family and medical leave, and, if so, the amount of leave that will be counted against the employee's leave entitlement.
- (b) Even if a request for family and medical leave is not submitted pursuant to Section 7.05(3) of these Policies, an employee's absence from work may be designated by the AOC HR Department as family and medical leave if the appointing authority or designee or AOC HR Department has sufficient information that the employee is otherwise eligible for family and medical leave pursuant to Section 7.05(2)(a)-(h) of these Policies. Within five business days of obtaining sufficient information, the AOC HR Department will inform the employee that the leave will be designated as family and medical leave and the amount of leave will be counted against the employee's leave entitlement. Neither the employee nor the KCOJ may decline or delay a family and medical leave designation once an eligible employee has communicated a need to take leave for a reason listed in Section 7.05(2)(b)(i-viii) of these Policies.
- (c) Family and medical leave and any accrued paid leave must be used concurrently. Unpaid family and medical leave may only be granted after all accrued paid leave is exhausted.

(5) Benefits During Family and Medical Leave

- (a) Any combination of working days, paid leave, or family and medical leave used by the employee within a month will entitle the employee to state-paid

contributions for life insurance and health benefits in the following month.

- (b) If unable to work, employees must use their family and medical leave days consecutively and must elect to use family and medical leave as their only qualification for state contributions for life insurance and health benefits.
- (c) Employees on unpaid family and medical leave will be responsible for their share of contributions for life insurance and health benefits. The contributions will be due at the same time the contributions would be made by payroll deduction.
- (d) Employees who have used all of their accrued paid leave and family and medical leave and remain unable to work for more than 100 regular hours in the month may only continue group health and life insurance benefits for the following month by paying the total cost of the state's contribution and their self-contribution for the benefits.
- (e) For each month that an employee has not worked or been in paid status for 100 regular hours, the employee's annual or probationary increment will be postponed one month.

(6) Return From Family and Medical Leave

- (a) Before returning from family and medical leave, the employee must submit form AOC-PER-7.04(c), Notice of Intention to Return to Work Form, to his or her appointing authority or designee or directly to the AOC HR Department. The appointing authority or designee must immediately forward form AOC-PER-7.04(c) to the AOC HR Department.
- (b) An employee must present a fitness-for-duty certificate to the AOC HR Department prior to being restored to employment. If such certification is not timely received, the employee's return to work may be delayed until certification is presented.
- (c) Upon returning from family and medical leave, the employee will be reinstated to his or her previous position or an equivalent position. An "equivalent position" will be virtually identical in terms of pay; benefits; and working conditions, including privileges, prerequisites, and status. The equivalent position will involve duties that are substantially similar to the employee's previous position.
- (d) On the first day of the employee's return to work, his or her benefits will be reinstated as applicable.
- (e) The KCOJ reserves the right to deny restoration to any key employee if it determines substantial and grievous economic injury will result if the employee is reinstated. Key employees are salaried employees and are among the highest paid ten percent of all employees within 75 miles of the employee's worksite.

(7) Enforcement

- (a) An employee may file a complaint with the Wage and Hour Division of the U.S. Department of Labor or may bring a private lawsuit against an employer.
- (b) FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family and medical leave rights.

(8) Questions

All questions about the FMLA policy should be directed to the AOC HR Department.

SECTION 7.06 Voting Leave

(1) To be eligible for voting leave, an employee must:

- (a) Be registered to vote in the county holding the election;
- (b) Cast a vote or make an application to the county clerk in person for an absentee ballot; and
- (c) Be scheduled to work on the day the vote is cast, or application is made.

(2) An employee who is eligible for voting leave may claim, upon prior request and approval by his or her appointing authority or designee, four hours of voting leave.

(3) The appointing authority or designee may specify the period of up to four hours during which an employee may be absent.

(4) Any employee casting an absentee ballot shall only be eligible to claim voting leave on the day the employee's vote is cast by mail or in-person if he or she is also scheduled to work that same day.

(5) An employee serving as a precinct election officer at the polls shall receive additional leave if the total leave does not exceed the number of hours in a regular workday, and the employee is scheduled to work on election day.

(6) Except as otherwise provided in KRS 118.035, any employee who exercises his or her right to voting leave under Section 7.06 of these Policies shall be subject to disciplinary action if the employee attempts to claim voting leave but is not registered to vote or fails to cast his or her vote.

(7) An employee who is permitted or required to work on the same day he or she is eligible to claim voting leave, must report all hours worked that day and must also claim all four hours of voting leave. In lieu of time off that day, an employee will accrue compensatory leave, on an hour-for-hour basis, up to a maximum of four hours, if the number of hours claimed and worked exceeds 7.5.

- (8) Employees on unpaid leave are not entitled to voting leave.

SECTION 7.07 Blood Donation Leave

- (1) Blood donation leave is granted for the purpose of whole blood donation and recuperation.
- (2) The blood donation must occur during an employee's scheduled work hours in order to qualify for the leave, which does not include the lunch period. An employee must receive approval from his or her appointing authority or designee prior to donating blood during work hours.
- (3) An employee who donates blood outside of his or her scheduled work hours is not eligible to claim blood donation leave.
- (4) Employees who donate blood may claim up to four hours of paid leave for the purpose of donating and recovering from the donation. Leave time must be taken at the time of donation unless circumstances, as specified by the appointing authority or designee, require the donor to return to work. In this case, the employee must report all hours worked in addition to claiming the four hours of blood donation leave.
- (5) An employee who attempts to donate blood and is turned away by the blood center will be excused for the time spent attempting to donate but will not qualify for blood donation leave that day. The employee must provide proof to his or her appointing authority or designee of the attempt to donate blood.
- (6) To claim the four hours of blood donation leave, employees must show proof of donation to their appointing authority or designee before submitting their timesheet for the pay period in which the blood donation was made.
- (7) The appointing authority or designee may set the number of times per year an employee may donate blood in exchange for the four hours of blood donation leave.

SECTION 7.08 Court Leave and Jury Duty Leave

- (1) An employee will be allowed a leave of absence from duties without loss of time or pay for the amount of time necessary to comply with subpoenas from any federal or state court that relate to his or her duties with the KCOJ.
- (2) An employee serving as a juror will be allowed a leave of absence from duties without loss of time or pay not to exceed his or her regular hours for a scheduled workday.
- (3) An employee is permitted to keep any compensation received for jury services.
- (4) If the employee is relieved from duty as a juror or witness during his or her normal working hours, the employee must return to work.
- (5) Court and jury duty leave include necessary travel time.

SECTION 7.09 Military Leave

- (1) An active member of the U.S. Army Reserve, the U.S. Naval Reserve, the U.S. Air Force Reserve, the U.S. Marine Corps Reserve, the U.S. Coast Guard Reserve, the U.S. Public Health Service Reserve, or the Kentucky National Guard required to serve under order or for training duty shall be granted leave without loss of regular compensation for a period not to exceed the number of working days specified in KRS 61.394, per federal fiscal year (October-September), provided the military orders require absence from work. Any additional military leave time must be charged to accrued annual or compensatory leave balances or be charged as leave without pay.
- (2) The appointing authority or designee may require a copy of the military orders requiring the absence from work before granting military leave.
- (3) Any employee who enters active military duty must be granted a leave of absence without pay for the period of that duty up to six years. Although the appointing authority or designee must grant such leave, the employee must request it in order to avoid being dismissed for abandonment of position without obtaining official leave.
- (4) Upon return from active duty, the employee will be restored to a job of like seniority, status, and pay under KRS Chapter 61. An employee restored from military leave is treated as though he or she had been in continuous service.
- (5) Any employee who is the spouse of an active member of the U.S. Army Reserve, the U.S. Naval Reserve, the U.S. Air Force Reserve, the U.S. Marine Corps Reserve, the U.S. Coast Guard Reserve, the U.S. Public Health Service Reserve, or the Kentucky National Guard who is called upon to serve under federal orders (deployment) shall be granted one day paid leave prior to deployment and one day paid leave upon return from deployment, per federal fiscal year (October-September).
- (6) The appointing authority or designee may require a copy of the spouse's military orders prior to approving the use of this leave.
- (7) While on military leave, the employee will not earn any annual or sick leave but will earn months of service time. The employee's increment date will not change.
- (8) A former employee seeking reinstatement who has been rejected or otherwise penalized may, as applicable, file a grievance or appeal as provided in Section 8 of these Policies.

SECTION 7.10 Bereavement Leave

Employees will be entitled to bereavement leave for up to three workdays due to the death of a member of his or her family, as defined in Section 1.04 of these Policies, or other relatives of close association if approved by the appointing authority or designee. Employees may use compensatory, annual, or sick leave or leave without pay during the absence. Upon the request of the employee, bereavement leave may be extended at the discretion of the appointing authority or designee.

SECTION 7.11 Kentucky Living Organ Donor Leave

- (1) A full-time employee who is absent from work due to medical reasons associated with donating a human organ or bone marrow may request to receive living organ donor leave.
- (2) “Human organ” is defined as any part of a human intestine, kidney, liver, lung, or pancreas.
- (3) Before being approved to receive any amount of living organ donor leave, the employee shall submit verification of the human organ or bone marrow donation procedure to his or her appointing authority or designee.
- (4) Once approved, the employee shall be granted living organ donor leave in the amount of:
 - (a) 240 hours of paid leave for each human organ donation; and
 - (b) 40 hours of paid leave for each bone marrow donation.

SECTION 7.12 Extended Leave Without Pay

- (1) Employees who anticipate an absence for 30 or more days may request extended leave without pay if they have used all available paid leave and have a continuing need to be absent. An employee may request extended leave without pay by submitting a written request to his or her appointing authority or designee.
- (2) The decision to approve or deny a request for extended leave without pay is within the discretion of the appointing authority or designee.
- (3) Even if a request for extended leave without pay is not submitted by the employee pursuant to Section 7.12(1) of these Policies, an employee’s absence for 30 or more continuous days without pay, including KCOJ holidays outlined in Section 6.02 of these Policies, will result in retroactive placement on extended leave without pay.
- (4) The appointing authority or designee must timely submit a PAR reflecting approval of extended leave without pay to avoid overpayment to the employee.
- (5) If an employee is granted extended leave without pay, the employee must return to work the next business day after the leave expires.
 - (a) If the employee cannot return to work after expiration of the approved period of extended leave without pay, the employee must immediately notify his or her appointing authority or designee.
 - (b) Unless the appointing authority or designee has approved a longer period of extended leave without pay, failure to report to work after the authorized extended leave without pay ends will be considered a voluntary resignation from employment. This provision does not apply to family and medical leave.

- (6) Employees cannot take extended leave without pay for more than six months in a 12-month period.
- (7) Employees who fail to meet the minimum monthly hours necessary to obtain benefits may be required to repay the state-paid portion of their health and life insurance.

SECTION 7.13 Absence Without Prior Approval

- (1) Absence without prior approval means an unauthorized or unreported absence from scheduled work. Except in cases of emergency or unforeseen illness, an employee who is absent without prior approval must report the reason for the absence to his or her appointing authority or designee prior to the start of the employee's workday as required by the appointing authority or designee.
- (2) The appointing authority or designee may deny use of accrued paid leave for absences without prior approval.
- (3) Absence without prior approval may:
 - (a) Be treated as leave without pay for an employee covered by the provisions of the FLSA; and
 - (b) Constitute grounds for disciplinary action, including dismissal.

SECTION 8. Separations, Disciplinary Actions, and Appeals

SECTION 8.01 Resignation

- (1) An employee who wants to resign his or her position with the KCOJ in good standing must notify his or her appointing authority or designee in writing at least 14 calendar days prior to the effective date of the resignation. If the employee provides verbal notice of the resignation and is unwilling or unable to put the notice in writing, the appointing authority or designee must document the verbal notice in writing and have the employee or a witness sign the notification. The appointing authority or designee must notify the AOC HR Department immediately upon receipt of the resignation.
- (2) A resignation is considered accepted immediately upon notification to the appointing authority or designee. However, a resignation may be rescinded after it is received if the appointing authority or designee agrees to the request to rescind.
- (3) An employee with an accrued annual leave balance who fails to notify his or her appointing authority or designee in writing at least 14 calendar days prior to the effective date of the resignation will lose annual leave for each day short of the 14 calendar days, unless waived by the appointing authority or designee. Full-time employees will lose annual leave at the rate of 7.5 hours for each calendar day. To the extent applicable, part-time employees will lose annual leave at the rate of 3.75 hours for each calendar day.
- (4) Following review of the employee's record of performance with the KCOJ, the HR Director or designee may designate an employee's resignation as accepted with prejudice, and the employee may not be eligible for rehire. Appropriate documentation will be maintained by the AOC HR Department.
- (5) An employee who resigns his or her position is not entitled to any grievance or appeal rights.
- (6) An employee who has been absent without prior approval for a period of three consecutive scheduled workdays will be considered to have voluntarily resigned from employment with the KCOJ and is not entitled to any grievance or appeal rights.

SECTION 8.02 Grievances

- (1) General
 - (a) The KCOJ recognizes that problems may arise during the course of employment. The KCOJ believes that every effort should be made to resolve these differences and concerns, and therefore has developed a grievance procedure for tenured employees.
 - (b) Except as otherwise provided in these Policies, a grievance may be filed by a tenured employee concerning a position or employee action under Section 4.01 of these Policies or disciplinary action under Section 8.03 of these Policies other than those that result in a loss of pay or other benefits of

employment for greater than three working days.

- (c) A tenured employee is entitled to file a grievance without interference, coercion, discrimination, or retaliation.

(2) Grievance Procedure

- (a) An employee who has a grievance must first discuss it with his or her appointing authority or supervisor unless it would not be appropriate under the circumstances. If the employee is unable to resolve the misunderstanding or disagreement with his or her appointing authority or supervisor, the employee may file a written grievance with the AOC HR Department.
- (b) A grievance is filed by submitting form AOC-PER-5.2, KCOJ Employee Grievance Form, on or before the fifth business day after the involuntary employee or disciplinary action occurred or on or before the fifth business day after the employee becomes aware of the action.
- (c) Form AOC-PER-5.2 should contain a detailed description of the factual basis for the grievance, provide the names of any relevant witnesses, and describe any relevant documents.
- (d) The HR Director or designee will assign an Employee Relations liaison to receive each grievance consistent with Section 3.03(2)(b) of these Policies.
- (e) Employee Relations liaison will investigate and evaluate the grievance, consult with the employee filing the grievance, the appointing authority or designee, and relevant witnesses, and consider any other pertinent submissions and sources of information prior to making a recommendation to the HR Director.
- (f) The HR Director will notify the employee in writing of the decision on the grievance within 30 business days of receiving the grievance unless the AOC Director or designee grants a reasonable extension of time for good cause shown.
- (g) If the employee is dissatisfied with the HR Director's decision, the employee may request a review by the AOC Director by filing a written request within five business days after receiving the HR Director's decision. The written request should describe in detail the basis for the review and the relief requested. The AOC Director or designee must issue a written opinion within 30 business days. The opinion will be final and not subject to appeal.
- (h) If the grievance is against the HR Director or an employee of the AOC HR Department, the General Counsel or designee will act in place of the HR Director.

SECTION 8.03 Disciplinary Actions

- (1) Disciplinary actions for tenured employees are generally progressive in nature to allow

KCOJ employees an opportunity to improve their behavior or their performance and remain productive employees. The disciplinary actions below are described in a step-by-step method and are intended to provide guidance to the appointing authority or designee. However, the appointing authority or designee may deviate from the disciplinary process depending on the situation. Section 8.03 of these Policies may also be used to address the performance or behavior of non-tenured employees at the discretion of the appointing authority or designee.

(a) Step One: Verbal Reprimand

Verbal reprimands are used as warnings for less serious disciplinary matters.

- (i) Written documentation of the behavior or performance deficiencies, including the date of the verbal reprimand, must be provided to the AOC HR Department and placed in the employee's personnel file.
- (ii) Employees do not have the right to grieve a verbal reprimand under Section 8.02 of these Policies.

(b) Step Two: Written Reprimand

- (i) A written reprimand must clearly identify the behavior and performance deficiencies for which the employee is being disciplined, the corrective action to be taken by the employee, and the potential consequences of the employee's failure to correct his or her behavior or performance.
- (ii) The Employee Relations liaison will prepare or review the written reprimand to ensure compliance with these Policies and present it to the appointing authority or designee for issuance.
- (iii) The appointing authority or designee must present the written reprimand to the employee in person and in the presence of a witness, and have the employee read and sign the reprimand to confirm he or she received it. The employee has the option of adding his or her comment(s) to the written reprimand. If the employee refuses to sign the written reprimand, the document must indicate such refusal and must be signed by the appointing authority or designee and the witness.
- (iv) The written reprimand along with any comments provided by the employee must be provided to the AOC HR Department, placed in the employee's official personnel file, and labeled as a written reprimand.

(c) Step Three: Final Reprimand

- (i) The final reprimand must specify the date of the final reprimand and, if applicable, the date and length of suspension, clearly identify the conduct and performance deficiencies for which the employee is being disciplined and the corrective action to be taken by the employee, and notify the employee of the consequences of his or her failure to correct

the workplace deficiencies, or any additional workplace deficiencies may result in dismissal.

- (ii) The Employee Relations liaison will prepare the final reprimand letter to ensure compliance with these Policies and present it to the appointing authority or designee for issuance.
 - (iii) If a final reprimand includes a suspension without pay, it may not exceed three working days.
 - (iv) The appointing authority or designee must follow these procedures when issuing a final reprimand:
 - a. Present the final reprimand letter to the employee in person unless circumstances require otherwise, and, in the presence of a witness.
 - b. Have the employee read and sign the final reprimand to confirm he or she received it.
 - c. Allow the employee the option to add his or her comments to the final reprimand letter.
 - d. If the employee refuses to sign the final reprimand letter, the letter must indicate such refusal and must be signed by the appointing authority or designee and the witness.
 - (v) The final reprimand letter along with any comments provided by the employee must be provided to the AOC HR Department and placed in the employee's official personnel file.
 - (vi) If the employee files a grievance pursuant to Section 8.02 of these Policies and the suspension is reversed, the employee will be reinstated with full pay for all working days he or she was suspended without pay.
- (d) Step Four: Involuntary Demotion or Transfer
- (i) If appropriate, in lieu of or prior to dismissal, an appointing authority or designee may pursue involuntary demotion or transfer pursuant to Section 4.01 of these Policies.
 - (ii) The involuntary demotion or transfer letter for a tenured employee must contain:
 - a. The effective date of the involuntary employee action;
 - b. The employee's conduct or work performance deficiencies that have resulted in the involuntary employee action;

- c. Corrective action to be taken by the employee to prevent further disciplinary action;
 - d. A statement notifying the employee that his or her failure to correct the workplace deficiencies, or any additional workplace deficiencies, may result in dismissal; and,
 - e. An explanation of grievance or appeal rights available to the employee should he or she disagree with the employee action.
- (iii) The Employee Relations liaison will prepare the involuntary demotion or transfer letter to ensure compliance with these Policies and present it to the appointing authority or designee for issuance.
- (iv) The appointing authority or designee must follow these procedures when issuing an involuntary demotion or transfer:
- a. Present the employee action letter to the employee in person unless circumstances require otherwise, and, in the presence of a witness.
 - b. Have the employee read and sign the notice of involuntary demotion or transfer to confirm he or she received it.
 - c. Allow the employee the option to add his or her comments to the letter.
 - d. If the employee refuses to sign, the letter must indicate such refusal and must be signed by the appointing authority or designee and the witness.
 - e. Should the employee decide to grieve or appeal the employee action, the procedures outlined under Sections 8.02 and 8.06 of these Policies shall apply.
- (v) The involuntary demotion or transfer letter along with any comments provided by the employee must be provided to the AOC HR Department and placed in the employee's official personnel file.

(2) Investigative Leave

- (a) Pending an investigation of any disciplinary matter, the Chief Justice or the AOC Director or their designees, after consulting with the appointing authority or designee, may place an employee on paid investigative leave for a period not to exceed five working days.
- (b) Investigative leave for more than five working days must be approved by the Chief Justice or the AOC Director and may be with or without pay. If the investigative leave is without pay, the employee may use accrued paid leave.

- (c) In all instances of investigative leave, the appointing authority or designee must submit a PAR to the HR Director indicating the effective dates of paid or unpaid leave.
- (3) The Chief Justice, as the executive head of the KCOJ, has the constitutional authority and responsibility to act in the best interests of the KCOJ. Accordingly, when the Chief Justice determines that an employee has deviated from good behavior or satisfactory performance of duties, an employee may be disciplined, up to and including dismissal, over the objection of the employee's appointing authority or designee.

SECTION 8.04 Dismissal

- (1) Whenever the appointing authority or designee has reasonable evidence that an employee under his or her management has substantially deviated from good behavior or satisfactory performance of duties, the appointing authority or designee, after consultation with the HR Director, may dismiss the employee from his or her position.
- (2) Grounds for dismissal include, but are not limited to, the following:
- (a) Being charged with, convicted of, or pleading guilty to a misdemeanor or felony;
 - (b) Refusal, failure, or inability to perform reasonable work duties or legal duties required by the appointing authority or designee;
 - (c) Recurring absences or tardiness from duty without good cause or reasonable evidence of good cause;
 - (d) Excessive absences that impair the employee's ability to perform official duties required by the appointing authority or designee;
 - (e) Refusal or inability to follow the prescribed procedures for handling money or maintaining records as required by the KCOJ or by any internal department policies, procedures, standards, or guidelines;
 - (f) Use of drugs, alcohol, or other intoxicants during working hours or the inability to work efficiently and effectively because of off-duty use of drugs, alcohol, or other intoxicants;
 - (g) Unprofessional conduct or habitual rudeness toward fellow employees, supervisors, officials, or the general public;
 - (h) Two or more instances of disciplinary actions taken against an employee during the 24 months before the present dismissal action;
 - (i) Insubordinate conduct or conduct that is intended to embarrass, harass, or bring disrepute to the KCOJ, its employees, or elected officials;

- (j) Failure to cooperate with an AOC audit, workplace conduct resolution, or investigation of any kind;
 - (k) Failure to comply with these Policies or other office policies of the employee's department;
 - (l) Theft, intentional damage, or destruction of KCOJ property;
 - (m) Falsification of records; or
 - (n) Unsafe behavior in the workplace including dangerous horseplay and fighting.
- (3) When dismissing a tenured employee, the appointing authority or designee, including the Chief Justice when applicable, must follow these procedures:
- (a) The Employee Relations liaison will prepare the intent to dismiss letter to ensure compliance with these Policies, and after consultation with and review by the General Counsel or designee, present it to the appointing authority or designee for issuance.
 - (b) The intent to dismiss letter must be signed by the appointing authority or designee and must inform the employee of the following:
 - (i) The reasons for the dismissal including instances of poor work performance of duties, workplace misconduct, or unlawful activity;
 - (ii) Any disciplinary actions unrelated to the present behavior or performance taken against the employee within the last 24 months and any related disciplinary actions taken against the employee at any time during the employee's tenure, which were considered by the appointing authority or designee in deciding to issue the dismissal;
 - (iii) The effective date of the impending dismissal;
 - (iv) That he or she is on paid administrative leave for five business days, during which time the employee has a right to a pre-dismissal meeting with his or her appointing authority or designee to refute the reasons for the dismissal; and
 - (v) An explanation of appeal rights available to the tenured employee should he or she disagree with the action of dismissal.
 - (c) The intent to dismiss letter will be issued to the employee by the appointing authority or designee in person with a witness present. If the employee is not available, efforts will be made to contact the employee by phone, electronic mail, and U.S. mail to inform the tenured employee of the proposed action. The employee's unavailability or inability to be contacted by the appointing authority does not negate the appointing authority's ability to issue the intent to dismiss letter.

- (d) The intent to dismiss letter along with any comments provided by the employee and a PAR for paid administrative leave must be submitted to the AOC HR Department and placed in the employee's official personnel file.
 - (e) If requested by the employee, the appointing authority or designee must conduct a pre-dismissal meeting within five business days of issuing the intent to dismiss letter.
 - (f) Employment with the KCOJ will end after the five business days of administrative leave unless the appointing authority or designee withdraws his or her intention to dismiss or the administrative leave is extended by the Chief Justice or AOC Director to permit a pre-dismissal meeting.
 - (g) If the appointing authority or designee does not withdraw his or her intention to dismiss, the employee will be notified in writing of his or her dismissal by final dismissal letter sent by e-mail and U.S. certified mail.
 - (h) Should the employee decide to appeal the dismissal, the procedures outlined in Section 8.06 of these Policies will apply.
- (4) A non-tenured employee may be dismissed by his or her appointing authority or designee, at any time, with or without cause or notice, as follows:
- (a) With approval of the HR Director, the Employee Relations liaison will prepare the non-tenured dismissal letter to ensure compliance with these Policies and present it to the appointing authority or designee for issuance.
 - (b) The appointing authority or designee must notify the employee in person or with AOC HR Department approval, communicate the dismissal by electronic means, and deliver the letter in person or via e-mail and U.S. certified mail.
 - (c) A dismissal PAR must be entered by the appointing authority or designee with a copy of the issued dismissal letter. The AOC HR Department will place the dismissal letter in the employee's official personnel file, and label as a non-tenured dismissal.
- (5) An employee serving a probationary period pursuant to Section 4.04 of these Policies may be dismissed at any time prior to the expiration of the probationary period without the right of appeal.
- (a) With approval of the HR Director, the Employee Relations liaison will prepare the probationary dismissal letter to ensure compliance with these Policies and present it to the appointing authority or designee for issuance.
 - (b) The appointing authority or designee must notify the employee in person or with AOC HR Department approval, communicate the probationary dismissal by electronic means, and deliver the letter in person or via e-mail and U.S. certified mail.

- (c) A probationary dismissal PAR must be entered by the appointing authority or designee with a copy of the issued probationary dismissal letter. The AOC HR Department will place the dismissal letter in the employee's official personnel file, and label as a probationary dismissal.

SECTION 8.05 Right to Appeal a Disciplinary Action Including Dismissal

- (1) All tenured employees of the KCOJ have the right to appeal the following disciplinary actions: demotions, dismissals, and other employee actions that result in loss of pay or other benefits of employment for greater than three days.
- (2) An employee failing to file an appeal before the deadline described in Section 8.06 of these Policies waives his or her right to any further administrative remedies or actions under these Policies.
- (3) Pursuant to Section 116 of the Kentucky Constitution and Supreme Court Rule 1.010, the Supreme Court of Kentucky has been vested with the exclusive authority over the rules for the appointment of KCOJ personnel and is expressly exempted from the provisions of KRS Chapter 18A. All tenured employees who seek an appeal of an employee action referenced in Section 8.05(1) of these Policies shall file the appeal with the AOC HR Department.

SECTION 8.06 Appeal Procedures

- (1) Hearing Officers
 - (a) The Chief Justice shall appoint five retired Judges or Justices in good standing with the Kentucky Bar Association to serve as Hearing Officers. The term of service for the appointed Hearing Officers will be two years. All appointed Hearing Officers will be provided a copy of these Policies and shall conduct hearings in accordance herewith. Only one appointee will serve as a Hearing Officer for an appeal. If the Chief Justice directly dismisses the employee involved in an appeal, a Special Hearing Officer will be appointed by the Deputy Chief Justice.
 - (b) A Hearing Officer shall disqualify him or herself from any proceeding where he or she has a personal bias concerning a party, has a personal knowledge of disputed evidentiary facts, or has expressed an opinion concerning the merits of the appeal.

- (2) Appeal Hearing Clerk

The Employee Relations liaison shall serve as the clerk of the appeal hearing and shall be responsible for maintaining a complete record of the appeal, including entry and notice of orders and recommendations, filing of papers submitted by the parties, and electronically recording the proceedings.

- (3) Appeal Procedures

- (a) A tenured employee seeking an appeal must submit form AOC-PER-6.4, Kentucky Court of Justice Appeal Form, to the Employee Relations liaison within 14 calendar days following receipt of electronic or physical receipt of written notice of final action, as confirmed by the AOC HR Department. Form AOC-PER-6.4 is the only document that may be submitted to initiate the appeal.
- (b) The employee must state on form AOC-PER-6.4 the specific reasons for the appeal and include a copy of the final dismissal letter or notice of disciplinary or employee action.
- (c) After receiving form AOC-PER-6.4, the appeal hearing clerk will designate a Hearing Officer from the list of appointed Hearing Officers. The appeal hearing clerk will make such designation after determining that the proposed Hearing Officer is available to serve and does not have a conflict of interest. The appeal hearing clerk will then provide the employee, AOC legal counsel, and the appointing authority or designee written notice of the designation.
- (d) Any party to an appeal may participate in-person or be represented by counsel.
- (e) The Hearing Officer must conduct a hearing within 60 calendar days from the date that the appeal was filed with the appeal hearing clerk.
- (f) The Hearing Officer may enter a scheduling order containing any filing deadlines and dates for the pre-hearing conference and the hearing.
- (g) The Hearing Officer may issue subpoenas and enter discovery orders at his or her discretion when requested by a party and address all matters related thereto.
- (h) If, at any time during the appeal proceedings, either party files with the appeal hearing clerk an affidavit asserting that the Hearing Officer will not afford the party a fair and impartial hearing, the appeal hearing clerk shall submit the affidavit to the AOC Director who shall immediately review the affidavit and determine whether the appeal hearing clerk is to designate another appointee for purposes of the appeal.
- (i) The Hearing Officer shall not communicate off the record with any party to the hearing or any other person who has a direct or indirect interest in the outcome of the hearing, concerning any substantive issue, while the proceeding is pending. If an ex parte communication occurs, the Hearing Officer shall note the occurrence for the record and shall place in the record a copy of the communication, if it was written, or a memorandum of the substance of the communication, if it was oral.

(4) Pre-Hearing Conference

- (a) No later than seven calendar days prior to the pre-hearing conference, each

party shall provide to the appeal hearing clerk the documentary evidence to be introduced at the hearing, as well as a list of witnesses to be called. The appeal hearing clerk shall forward, as soon as possible, the documentary evidence and the list of witnesses to be introduced by each party to the Hearing Officer and the opposing party.

- (b) No later than 14 calendar days prior to the hearing, the Hearing Officer shall convene and conduct a pre-hearing conference on the record. The pre-hearing conference may take place in person or by electronic means. The purpose of the pre-hearing conference will be to:
 - (i) explore mediation and settlement possibilities;
 - (ii) prepare stipulations;
 - (iii) clarify issues;
 - (iv) tender subpoenas; and
 - (v) issue rulings regarding witnesses, evidence, and other matters that will promote the orderly and prompt conduct of the hearing.
- (c) Upon conclusion of a pre-hearing conference, the Hearing Officer shall issue a pre-hearing order incorporating all rulings and procedure agreed upon at the pre-hearing conference.
- (d) The pre-hearing conference will be closed to the public.

(5) Conduct of Hearing

- (a) The Hearing Officer shall preside over the hearing and shall regulate the course of the proceedings in a manner that will promote the orderly and prompt conduct of the hearing. When a pre-hearing order has been issued, the Hearing Officer shall regulate the hearing in conformity therewith. The hearing shall be conducted on the record.
- (b) To the extent necessary for the full disclosure of all relevant facts and issues, the Hearing Officer shall give all parties the opportunity to present opening and closing arguments, respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by the pre-hearing order or a determination by the Hearing Officer that the proposed evidence is irrelevant, immaterial, unduly repetitious, or otherwise inadmissible. If the facts of the matter would give rise to a criminal proceeding, no person shall be compelled to give evidence against him or herself.
- (c) The Hearing Officer may conduct all or part of the hearing by electronic means if each party to the hearing has an opportunity to hear the entire proceeding as it occurs. The Hearing Officer shall make the determination of whether to permit all or part of the hearing to be conducted by electronic means. The

Hearing Officer shall administer oaths to witnesses for each party, including the employee, and shall have the authority to question the witnesses and conduct any other related fact-finding efforts. The Hearing Officer shall ensure that an accurate and complete record of the hearing is made.

- (d) The employee and the appointing authority or designee may present witnesses and documentary evidence to be evaluated by the Hearing Officer. It shall be the sole responsibility of each party to assure the attendance of their respective witnesses. In the event that a proposed witness fails to appear, or the employee fails to request a subpoena be issued by the Hearing Officer, a continuance will not be granted, except for extraordinary circumstances as determined by the Hearing Officer.
- (e) If a party fails to attend or participate in a pre-hearing conference or hearing or fails to comply with the orders of the Hearing Officer, the Hearing Officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice, and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order.
- (f) The hearing may be closed to the public for good cause shown, at the discretion of the Hearing Officer.
- (g) In all hearings, unless otherwise provided by statute or federal law, the party proposing that the KCOJ take action has the burden to show the propriety of the action. The KCOJ has the burden to show the propriety of a disciplinary action imposed. The party asserting an affirmative defense has the burden to establish that defense. The party with the burden of proof on any issue has the burden of proof going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of proof in all hearings is met by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the Hearing Officer.
- (h) The Hearing Officer shall issue his or her findings of fact and conclusions based solely upon the evidence on the record. The Hearing Officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. Hearsay evidence may be admissible, if in the opinion of the Hearing Officer, it is of the type that reasonable and prudent people would rely upon in their daily affairs.
- (i) All testimony shall be made under oath. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party. All objections to evidentiary offers shall be noted in the record.
- (j) At the conclusion of the hearing, the Hearing Officer may order the parties to

tender proposed findings of fact and conclusions.

- (k) The Hearing Officer shall issue his or her written findings of fact, conclusions, and recommendation to the AOC Director within 14 calendar days from the completion of the hearing. The Hearing Officer may request, in writing, an extension of time not to exceed 14 calendar days from the Chief Justice, or Deputy Chief Justice when appropriate, which may be granted based upon good cause shown.
- (l) The Hearing Officer's recommendation will be submitted to the appeal hearing clerk for filing in the record and transmission of a copy to the AOC Director and parties. The Hearing Officer's recommendation is not subject to further administrative appeal.
- (m) The AOC Director will evaluate the recommendation of the Hearing Officer and make the final decision in regard to the appeal. Once issued, the AOC Director's final decision will be filed in the record and the employee's official personnel file. The AOC Director's final decision is not subject to further administrative appeal.
- (n) If either party is dissatisfied with the decision of the AOC Director, an original action may be filed within 30 calendar days after the date of the AOC Director's final decision in Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides.



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