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Administrative Office of the Courts

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Directive # 12-18
[Supersedes Directive #02-13]

To: **Hon. Carmen Messano**
Assignment Judges
Hon. Joseph M. Andresini

From: **Glenn A. Grant, J.A.D.,**
Acting Administrative Director

GAG by SEB

Subject: **Judges' Absences from the Workplace – Reporting Policy (Revised)**

Date: **August 13, 2018**

Attached is a revised Judges' Absences from the Workplace Reporting Policy, as approved by the Supreme Court at its July 17, 2018 Administrative Conference. This revised policy supersedes the policy promulgated by Directive #02-13 effective immediately.

As noted in that prior directive, the purpose of the policy is to assist in planning for judicial coverage during judges' absences and/or inability to perform unrestricted full-time judicial duties and, further, to help ensure that a judge does not return to work before it is medically advisable to do so. The policy also provides for necessary recordkeeping to facilitate any future application for judicial disability retirement. The policy in that regard is aligned with federal and state legal mandates that confidential medical records be provided to and maintained by Human Resources, rather than by the Assignment Judge or the Appellate Division or Tax Court Presiding Judge.

The revisions from the previous directive are: (1) to add a designated time frame when a judge may be required to provide proof of illness or injury; (2) to remove language requiring that a judge's absence be for more than five consecutive days before the Assignment Judge may request a medical note; and (3) to add language addressing situations where a judge's behavior may call into question his or her fitness for duty and give the Assignment Judge or the Appellate Division or Tax Court Presiding Judge the authority to refer a judge for an independent medical examination or to request medical authorization of fitness for duty.

Please ensure that all judges in your vicinage or in your court receive a copy of this revised policy and are aware of its provisions. The policy also will be posted on the InfoNet on the "For Judges" page. You may contact Janet Share Zatz, Assistant Director for Human Resources, with any questions regarding the revised policy.

Attachment (Revised Policy)

cc: Chief Justice Stuart Rabner
Supreme Court
Hon. Jack Sabatino
Steven D. Bonville, Chief of Staff
Central Office Directors and Assistant Directors
Clerks of Court
Trial Court Administrators
Directors of Dedicated Funds
Counsel to the Administrative Director
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Human Resources Division Managers

JUDGES' ABSENCES FROM THE WORKPLACE - REPORTING POLICY

Policy Promulgated by Directive # 12-18 (dated August 13, 2018)

At its July 17, 2018 Administrative Conference, the Supreme Court approved the following revised reporting policy concerning judges' absences from the workplace. This revised policy supersedes the previously approved policy promulgated by Directive #02-13. It is applicable to the Appellate Division, the Superior Court, and the Tax Court (as was the prior policy).

This policy has been adopted to assist in planning for judicial coverage during judges' absences and/or inability to perform unrestricted full-time judicial duties, and further, to ensure that a judge does not return to work before it is medically advisable to do so.

Additionally, this policy provides necessary recordkeeping to facilitate any future application for judicial disability retirement.

If a judge has been absent on sick leave for five or more consecutive days or if there is a reason to suspect that a judge's use of sick leave is inappropriate, the judge may be required to provide, within a designated time frame, proof of illness or injury to Human Resources.

The medical information should contain a diagnosis, a prognosis, limitations on the ability to perform judicial duties and an estimation of the probable return date to full-time judicial duties. Human Resources should retain that information, together with any other pertinent medical or psychiatric/ psychological information, in a confidential file. Without revealing the underlying medical condition, the Human Resources representative should provide the Assignment Judge/Presiding Judge[1] with information regarding any limitations on the ability to perform judicial duties and the probable return date to full-time judicial duties. If the medical documentation reveals that the judge is unable to perform any judicial duties, the Assignment Judge/Presiding Judge should so advise the Administrative Director.

If the medical information provided to Human Resources reveals that a judge is medically or psychiatrically determined capable either of (a) returning to unrestricted part-time judicial duties or (b) returning to full-time judicial duties but with restrictions or conditions on the judge's judicial assignment, the Assignment Judge/Presiding Judge shall so notify the Administrative Director and shall provide the Administrative Director with information as to the necessary restrictions or conditions. In that situation, the judge shall not be permitted to return either to unrestricted part-time judicial duties or to full-time judicial duties under restrictions/conditions without the approval of the Chief Justice, the Administrative Director and the Assignment Judge/Presiding Judge.

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[1] As used in this policy, "Assignment Judge/Presiding Judge" shall be read as the Assignment Judge for Superior Court judges, the Appellate Division Presiding Judge for Administration for Appellate Division judges, and the Tax Court Presiding Judge for Tax Court judges.

In the event that a judge is diagnosed with a medical or psychological/ psychiatric condition that does not require his/her absence from work (or that does not require his/her absence for more than five consecutive days), but which does prevent the judge from performing full-time unrestricted judicial duties, the judge shall provide Human Resources with relevant documentary evidence of that medical or psychiatric/psychological condition, including information as to any necessary restrictions or conditions and the reasons therefor. Human Resources shall provide information limited to any restrictions/conditions on the judge's ability to perform full-time unrestricted judicial duties to the Assignment Judge/Presiding Judge. The judge shall not be permitted to continue or return to his/her judicial duties with such restrictions/conditions without the approval of the Chief Justice, the Administrative Director, and the Assignment Judge/Presiding Judge.

After initial medical or psychiatric/psychological information is provided, absent extraordinary circumstances, Human Resources should thereafter obtain periodic reports on a regular basis during the pendency of the judge's absence from full-time judicial duties.

In the event that a judge, having been absent from work on sick leave for more than five consecutive days, or having been on part-time duty or restricted full-time duty, is medically or psychiatrically determined capable of returning to unrestricted full-time judicial duties, the Assignment Judge/Presiding Judge shall so notify the Chief Justice and the Administrative Director.

The Assignment Judge/Presiding Judge, with the approval of the Administrative Director, may require any judge whose medical, physical or mental condition is covered by this policy, or whose behavior or performance calls into question his or her fitness to perform judicial duties, to undergo an independent medical and/or psychiatric/psychological examination to confirm the nature and extent of any illness or disability, or to provide a report on the fitness of the judge to perform judicial duties, any limitations on the judge's ability to perform, as well as any follow-up action recommended. The results of that examination shall be provided to Human Resources. Human Resources shall share information related to any limitation on the judge's ability to perform full-time unrestricted judicial duties with the Assignment Judge/Presiding Judge and the Administrative Director.