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Montana Rules of Court

Title: Rules for the Courts of Limited Jurisdiction Training and Certification of Judges

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**RULES FOR COURTS OF LIMITED
JURISDICTION TRAINING AND
CERTIFICATION OF JUDGES**

Rule 1. Scope of rules. A. DEFINITIONS. As used in these rules, the following definitions apply:

(1) “Commission” means the commission on courts of limited jurisdiction established by the supreme court.

(2) “Governing body” means:

(a) for a justice court:

(i) the board of county commissioners; or

(ii) the commissioners for the consolidated local government; and

(b) for a city court or municipal court:

(i) the city council; or

(ii) the commissioners for the consolidated local government.

(3) “Judge” means:

(a) a municipal court judge;

(b) a justice of the peace; or

(c) a city judge.

B. WHO MUST BE CERTIFIED. Pursuant to MCA 3-1-1502 and 3-1-1503, a judge selected for a term of office on or after January 6, 1986, may not assume the functions of office unless he or she has filed a certificate of completion or a temporary certificate with the county clerk and recorder in that district.

Rule 2. Certification of new judges. A. DUTIES OF COURT ADMINISTRATOR. Under the direction of the commission, the supreme court administrator shall:

(1) send governing bodies a letter containing information on certification of judges;

(2) send to each new judge an information packet containing:

(a) an application for temporary certification;

- (b) a questionnaire on what books, references, and other materials are available in the judge's office;
 - (c) a checklist of materials needed by the judge;
 - (d) information on the next available training session;
 - (e) notification of options in case of failure to obtain a certificate of completion, including information on available study materials; and
 - (f) a copy of these rules;
 - (3) notify the Montana Magistrates' Association of the name and address of each new judge;
 - (4) notify the commission of the name and address of each new judge; and
 - (5) monitor the temporary certificate status of each new judge and report to the commission on the status of each application for a temporary certificate.
- B. DUTIES OF NEW JUDGE.** A new judge shall:
- (1) return the completed request for a temporary certificate to the supreme court administrator;
 - (2) return the completed questionnaire to the supreme court administrator;
 - (3) apply to the supreme court administrator for enrollment in the next semiannual training session; and
 - (4) enroll with the supreme court administrator for testing for a certificate of completion.
- C. DUTIES OF GOVERNING BODY.** The governing body shall:
- (1) immediately notify each newly elected or appointed judge of the requirement to contact the supreme court administrator's office; and
 - (2) complete the notification of election or appointment and mail it to the supreme court administrator's office.

Rule 3. Temporary certificate. A. APPLICATION.

- (1) A judge shall apply in writing to the commission for a temporary certificate;
 - (a) immediately upon assuming office as a successor or new judge; or
 - (b) within 15 days of receipt of notification by the commission that a certificate of completion has expired or that a renewal will not be granted.
- (2) The commission shall act promptly upon an application for a temporary certificate and may take action appropriate to the circumstances.

B. ISSUANCE.

- (1) The commission may issue temporary certificates to judges under the terms and conditions set forth in Rule 3B(3).
- (2) A temporary certificate may contain conditions considered appropriate by the commission. The certificate is effective for a period not to exceed 6 months and has the same effect as a certification of completion.
- (3) (a) The commission may issue a temporary certificate to a judge who:
 - (i) is appointed or elected for the first term of office following a general election and after the course of education and training has been held;
 - (ii) did not attend the required course of education and training because of personal illness, death in the family, or other good cause and was excused by the commission;
 - (iii) has failed to obtain a certification of completion before assuming office;
 - (iv) has failed to obtain a renewal of the certificate of completion; or
 - (v) is eligible for other good cause.
- (b) The commission may issue a temporary certificate to a judge who has received a waiver of training from the commission.

Rule 4. Education and training — judicial education policy — certificate of completion.

- (1) The commission shall prescribe an annual course of education and training that must be completed by all judges of courts of limited jurisdiction. The course of education and training must include the successful completion of a certification test pursuant to Rule 6, and such other testing as the commission shall authorize. Attendance is required at all training sessions pursuant to MCA 3-10-203 and MCA 3-11-204.
- (2) Duly elected or appointed judges of the Montana courts of limited jurisdiction and members of the Commission may attend the training sessions. Upon invitation of the Commission, or upon written application and for good cause shown, the Commission may allow attendance by any other person so long as that person's attendance is in furtherance of the educational policy of the Commission. All attendees shall follow the educational policies of the Commission.
- (3) Post training, individuals may request copies of recorded training sessions. However, in order to request dissemination of electronic transcription of training sessions, the requester must be eligible to attend training sessions as set out in subsection (2) above. Additionally, the requester must supply the Judicial Education Coordinator with the appropriate technology as requested; pay any associated shipping/handling costs; and request recorded copies from only the most recent COCLJ training conference and/or the most recent certification school.
- (3) The commission hereby establishes a "Judicial Education Policy" which shall address issues relating to implementation of education and training of judges, including but not limited to; special training for new judges or judges exhibiting deficiency in a particular subject matter, scheduling of training conferences; conference registration; testing; attendance requirements and penalties for violation thereof.
- (4) The commission shall issue a certificate of completion to all judges who successfully complete the course of education and training.
- (5) A judge must file with the clerk and recorder of that jurisdiction a certificate of completion:
 - (a) at the beginning of the judge's term of office; and
 - (b) after each general election; or
 - (c) every 4 years after the date of taking office.

Rule 5. Waiver.

A. **WAIVER COMMITTEE.** The Commission shall annually name a three-member waiver committee. The committee shall recommend action to the Commission on all written applications from judges for waivers of semi-annual training, and shall act on all applications for waivers of training for substitute judges.

B. **WAIVER OF SEMI-ANNUAL TRAINING.** (1) To obtain a waiver of attendance at a training conference, the judge must make written application to the Commission, via the waiver committee, stating the reason why a waiver is requested. Except for requests for a waiver under B(2), the request for a waiver must be submitted to the Commission, via the waiver committee, at least forty (40) days prior to the scheduled date the training conference will begin. A notice of the waiver committee's proposed recommendation to the Commission will be sent to the applicant five (5) days prior to the Commission's action thereon. If the applicant objects to the proposed recommendation, the applicant may appear at the next regular Commission meeting and present his or her position to the Commission. The Commission shall consider the request for waiver and shall advise the judge in writing of its determination at least ten (10) days prior to the scheduled date the training conference will begin.

- (2) The Commission may grant a waiver of semi-annual training because of illness, death in the family, or other good cause. Only one semi-annual training session may be waived by virtue of attendance at an out-of-state training program.
- (3) Any request for permission to leave a semi-annual training conference prior to its completion shall be presented in writing to the Commission, via the waiver committee, and shall constitute an

application for a waiver. All training conference and emergency waiver requests shall be initially addressed by the waiver committee, which will make a recommendation to the full Commission.

C. **WAIVER OF TRAINING FOR SUBSTITUTE JUDGES.** (1) When a substitute judge is named to act for an absent judge or perform daily operations on an occasional basis pursuant to MCA 3-10-231(2) through (5), the substitute judge is required to obtain a waiver of training from the waiver committee. A substitute judge must be of good moral character and must have good community support, a sense of community standards, and a basic knowledge of court procedure.

(2) The elected or appointed judge must complete and submit the request for waiver of training for the substitute judge. The prescribed forms may be obtained by writing to the commission.

(3) The waiver committee shall review each request for waiver of training and shall advise the judge of its decision. No more than five substitute judges in one jurisdiction may receive a waiver of training in 1 year.

(4) If the waiver committee does not approve the application for waiver of training for the substitute judge, the judge making the application may file a written request with the commission requesting a review of the matter by the commission. Upon receipt of the judge's written request for review, the commission shall consider the matter at the next regular meeting and advise the judge of its decision. The judge making the request is encouraged to appear at the commission meeting where the matter is being considered.

Rule 6. Certification test.

A. **PREPARATION.** Beginning in November 1986 and every 4 years thereafter, the commission shall prepare a certification of completion test which shall be administered after the general election in conjunction with the training conference. This test must be used for all interim certification testing. The test must cover subjects commonly encountered by judges of courts of limited jurisdiction.

B. **ADMINISTRATION.** Under the supervision of the commission, the supreme court administrator shall monitor the integrity of the certification test, administer and grade the tests, and notify the judges of the test results. The commission shall establish what constitutes a passing grade.

C. **OPTIONS IN CASE OF FAILURE.** (1) A judge who fails the certification test may request from the commission an opportunity to retake the test. The test may be retaken only once unless there is a showing to the commission of exceptional circumstance justifying an additional retest.

(2) Prior to retaking the certification test, the judge shall apply to the commission for a temporary certificate. The commission may grant a temporary certificate as provided in Rule 3B and may also require the judge to meet certain conditions prior to allowing the judge to retake the test. The judge may be required to review videos, receive special assistance, or complete an independent study of selected materials.

(3) Upon completion of the temporary certificate conditions, the commission may authorize the judge to retake the certification test.

(4) A certification test must be retaken within a period of time set by the commission, but in no event may it be taken sooner than 30 days or later than 6 months after failing the certification test.

Rule 7. Failure to obtain certification — notice. (1) Upon failure of a judge to obtain a certificate and after the expiration of the period within which an application for a temporary certificate may be made, the judge is disqualified and there is a vacancy in the office.

(2) The commission shall send notice of the disqualification and vacancy to:

- (a) the judge;
- (b) the supreme court;
- (c) the clerk and recorder of the judge's jurisdiction; and
- (d) the governing body.

**MONTANA SUPREME COURT
COMMISSION ON COURTS OF LIMITED JURISDICTION
JUDICIAL EDUCATION POLICY**

1. NEW JUDGES. Upon notification of election or appointment pursuant to MCA 3-1-1503 or MCA 13-15-405, the Court Administrator's Office shall without unnecessary delay, mail or deliver available training materials, together with instructions, to the elected or appointed judge.

2. TRAINING CONFERENCES. Pursuant to MCA 3-10-203 and MCA 3-11-204, the Commission will conduct two training conferences each year — Spring and Fall.

3. TRAINING CONFERENCE SCHEDULING. At each training conference judges will be notified of the dates and location of the next training conference to the extent that the date and location are known. Judges are responsible for calendaring training conferences.

4. CONFERENCE REGISTRATION. It is the duty of each judge to notify the Court Administrator's Office of a change of address for the court or judge. The Court Administrator's Office shall mail registration materials to each judge at least 45 days prior to the beginning of a conference. Registration materials shall include a registration form, "Tentative Agenda" identifying the beginning and ending of the conference, a room reservation form if provided by the hotel, and other appropriate information. Each judge shall:

- (1) complete the registration form including questions relating to the court;
- (2) make appropriate arrangements with the city or county for payment of the registration fee, and
- (3) return the completed form together with the registration fee to the Court Administrator's Office by the deadline listed.

5. HOTEL RESERVATIONS. The conference facility will block a sufficient number of rooms and will set a deadline for making reservations. Each judge is responsible for making room reservation within the allotted time.

6. NON-SMOKING ENVIRONMENT. Smoking is not permitted in classrooms, breakout rooms, break areas, hallways adjacent to any area used by judges, or during meals provided by the conference. Smoking is only allowed outside the conference facility, in a judge's private room, or areas specifically designated by the conference facility as smoking areas.

7. BEGINNING OF CONFERENCE. All judges shall be present when the conference begins unless a waiver has been granted by the Commission.

(See Rule 5B of Limited Jurisdiction Training and Certification of Judges.)

8. SIGN IN / SIGN OUT. Judges should plan their arrival to allow time to acquaint themselves with the layout of the conference facility and location of the classes. Judges are required to sign in at the conference registration table and pick up their conference folder during the times listed on the Tentative Agenda. Judges will also be required to sign out after the last session of the conference.

9. DAILY SCHEDULE. Judges are responsible for knowing and complying with the daily class schedule, including times scheduled for breaks and lunch. **Attendance at every class in its entirety is mandatory unless excused by the Commission.**

(See Rule 5B Courts of Limited Jurisdiction Training and Certification of Judges.)

- (1) Judges who attend classes while exhibiting signs of alcohol or other chemical impairment will be removed from the class and will not receive credit for attending that class. *(See Rule 11, below.)*

10. BREAKS. Classes will be scheduled with at least one (1) break each hour. Judges should promptly return to the classroom before the class is scheduled to begin. Judges should remain in the classroom for the **entire session** unless a physical condition requires a break more often.

11. CERTIFICATES. Conference certificates will be mailed to each judge after the conference is concluded. Judges failing to attend all conference classes in their entirety, unless excused by the Commission, will not be given a conference certificate and will not receive credit for the conference.

12. TESTING. In addition to the certification test as provided in *Rule 6 Courts of Limited Jurisdiction and Certification of Judges*, judges are subject to testing during all training conferences, depending upon the educational objectives and the material presented.

Testing results, other than the certification test, will *not* be reported on a pass/fail basis, but will be used to determine if:

- (1) the material presented was adequately covered and understood by a judge(s);
- (2) judge(s) would benefit from further instruction in any area of the law, and
- (3) an individual judge needs special assistance on a specific subject matter.

13. VIOLATION OF POLICY. Judges failing to attend a conference in its entirety, including late registration, failing to attend classes, late for classes, or leaving classes early, shall be grounds for action by the Commission. Upon determination that a judge has violated the attendance policy, the Commission may:

- (1) withhold a certificate of completion, creating a violation of MCA 3-10-203 or MCA 3-11-204;
- (2) require a judge to appear before the Commission to explain a lack of attendance;
- (3) require a judge to attend, at his or her own expense, a State Bar CLE or other structured educational class as a makeup;
- (4) notify the city or county of the judge's violation of attendance policy, or
- (5) take other appropriate action after considering the circumstances of non-attendance.

14. AMERICANS WITH DISABILITIES ACT (ADA). The Commission will make reasonable accommodations for any judge covered by the ADA with respect to training, certification, and participation at training conferences. Due to the logistics of planning a statewide conference, any judge claiming reasonable accommodations under the ADA should endeavor to do the following not less than 90 days prior to a conference:

- (1) Notify the Commission in writing of his or her request for reasonable accommodations at a training conference;
- (2) List with reasonable specificity what accommodations are requested.

End