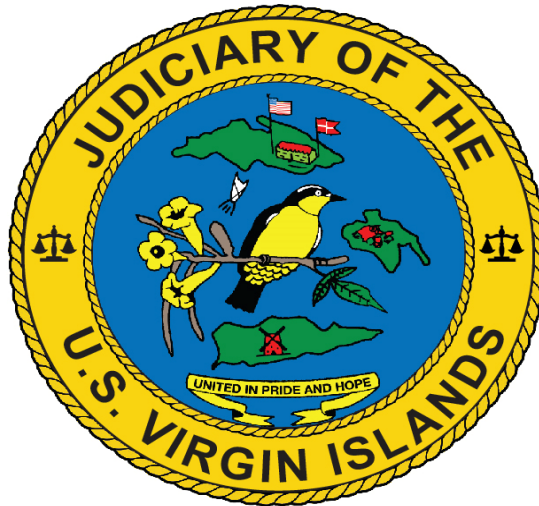


JUDICIAL BRANCH OF THE VIRGIN ISLANDS PERSONNEL RULES



Supreme Court Locations:

St. Thomas-St. John District
8174 Subbase
St. Thomas, VI 00802

Mailing Address:
P. O. Box 590
St. Thomas, VI 00804

St. Croix District
#18 Strand Street
Frederiksted, VI 00841

Mailing Address:
P. O. Box 336
Frederiksted, VI 00841

Superior Court Locations:

St. Thomas-St. John District
Alexander A. Farrelly Justice Center
5400 Veterans Drive
St. Thomas, VI 00802

Magistrate Division
Barbel Plaza South
No. 8A Estate Ross
St. Thomas, VI 00802

Mailing Address:
P.O. Box 70
St. Thomas, VI 00804

St. Croix District
R.H. Amphlett Leader Justice Complex
RR Box 1-9000 Kingshill
St. Croix, VI 00850

Mailing Address:
P.O. Box 929, Christiansted
St. Croix, VI 00821-0929

ORDER ADOPTING PERSONNEL RULES

Pursuant to the authority vested in the Chief Justice of the Judicial Branch of the Virgin Islands at Title 4, Sections 4, 30, and 31 of the Virgin Islands Code, these Personnel Policies and Procedures are hereby adopted for the Judicial Branch of the Virgin Islands effective June 1, 2017. All previous personnel rules are hereby rescinded with the exception of pending grievances and appeals which will be governed by the Superior Court's Personnel Policies and Procedures Manual dated February 15, 2009 until final adjudication.

/s/ Rhys S. Hodge
RHYS S. HODGE
Chief Justice

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INTRODUCTION

Welcome to the Judicial Branch of the Virgin Islands, the third branch of government. It is our goal to recognize the importance of each individual and to create an environment where all employees can be satisfied with their accomplishments, contributions and personal growth. Whatever your assignment may be, you have an important part to play.

The success of any organization depends to a great degree on the teamwork and cooperation of many individuals. Each person, through efficient work and a cooperative attitude, contributes not only to the good of the Judicial Branch of the Virgin Islands but to his or her own progress as well. It is our desire to make the Judicial Branch a good place to work. Your efforts and positive attitude will help us achieve this goal. We are pleased to have you with us.

The purpose of these Personnel Rules is to ensure that all employees enjoy the same rights and general conditions of employment.

NO PROVISION OR PORTION OF THIS PERSONNEL POLICY AND PROCEDURE MANUAL CONSTITUTES AN IMPLIED OR EXPRESSED CONTRACT, GUARANTEE, OR ASSURANCE OF EMPLOYMENT FOR ANY SPECIFIC PERIOD OF TIME OR ANY RIGHT TO AN EMPLOYMENT-RELATED BENEFIT OR PROCEDURE. THE JUDICIAL BRANCH RESERVES THE RIGHT AT ALL TIMES TO CHANGE, MODIFY, ELIMINATE, OR DEVIATE FROM ANY POLICY OR PROCEDURE IN THIS MANUAL AND TO HIRE, TRANSFER, PROMOTE, DISCIPLINE, TERMINATE, AND OTHERWISE MANAGE ITS EMPLOYEES AS IT DEEMS APPROPRIATE.

THIS MANUAL IS DESIGNED TO SERVE AS GUIDELINES FOR MANAGEMENT ACTION. IF YOU HAVE QUESTIONS CONCERNING THESE GUIDELINES, PLEASE CONSULT WITH YOUR SUPERVISOR, AN HR REPRESENTATIVE OR YOU MAY CONTACT THE ADMINISTRATOR OF COURTS IN WRITING.

Definitions

“Administrative authority” means those individuals vested with authority over personnel matters for employees within their jurisdiction. This includes Judicial Officers, Administrator of Courts, Clerk of the Supreme Court, Clerk of the Superior Court, and the Chief Marshal.

“Alternative Work Schedule” means an arrangement by which employees may be allowed to set their own work schedules.

“Appeal” means a complaint or petition, other than a grievance, filed by an employee with the administrative authority pursuant to the policies and procedures in this manual.

“Administrative and Support Divisions” mean the divisions of the Judicial Branch managed by the Administrator of Courts which facilitate the administration and operations of the Judicial Branch.

“Censure” means a formal, public reprimand for an infraction or violation.

“Class” means a group of positions, sufficiently similar in duties, authority, and responsibilities, that they may use the same descriptive title, qualifications, and pay grade.

“Classification” means the assignment of a position to a class.

“Classification Plan” means the establishment of the qualifications and duties for each position or class of positions and the allocation of each position to a class.

“Classification system” means all positions within the classification plan of the Judicial Branch of the Virgin Islands established by these rules.

“Compensation plan” means the structure of job grades and pay ranges established for the Judicial Branch of the Virgin Islands.

“Compensatory time” means time credited to applicable employees as defined by the federal Fair Labor Standards Act.

“Compensatory time-off” means time off work in lieu of monetary overtime compensation otherwise required for employees.

“Contract employee” means an employee whose relationship with the Judicial Branch of the Virgin Islands is governed by a written contract of employment for a specified term without any expectation of renewal.

“Conviction” means any plea or finding of guilt, including plea of *nolo contendere* or acceptance of a deferred sentence.

“Corrective action” means a written warning, reprimand, or censure given to correct and improve job performance, which does not affect current pay, status, or tenure.

“Deferred sentence” means postponement of judgment and sentence following a plea of guilty as provided in the Virgin Islands Code.

“Demotion” means a change in an employee’s position or class within the classification plan which results in a lower pay grade.

“Disciplinary action” means an action taken to penalize an employee for an offensive act, misconduct, violation of the law or the Judicial Branch’s policies and procedures, or poor job performance, which adversely affects pay, status, or tenure.

“Grace period” means the 15 minutes period of time, at the beginning of the work day or upon return from one’s lunch hour, which may be allowed before an employee is considered tardy.

“Grade” means a number used in the compensation plan to identify a range of salaries to which job classifications are assigned.

“Grievance” means a formal complaint by an employee concerning a situation, not otherwise appealable, related to working conditions, working relationships, or local policies, rules, or regulations.

“Hearing Officer” means a person selected to conduct hearings in disciplinary actions or the Chief Justice who hears appeals of disciplinary actions.

“Hire” means appointment of a person to a position within the classification plan or the appointment of law clerks or temporary employees.

“Independent contractor” means a person who is not an employee of the Judicial Branch of the Virgin Islands and not within the protection or coverage of the Judicial Branch’s Workers Compensation Insurance and who receives contract payments and not wages.

“Judicial Branch” means the branch of the Government of the Virgin Islands in which judicial power is vested.

“Judicial Officer” means the justices, judges and magistrate judges of the Superior and Supreme Courts.

“Layoff” means the involuntary separation of a regular employee due to abolition or vacation of the employee’s position or budgetary restraints.

“Manager” means someone who is authorized and responsible for controlling the work and staff of the Judicial Branch of the Virgin Islands in one of its units, departments, or divisions.

“Operational Divisions” means the divisions managed by the Clerk of the Supreme and Superior Courts which are responsible for the daily operations of the Court’s business.

“Organizational chart” means the diagram representing the official structure of the Judicial Branch.

“Overtime” means the time an employee is directed or permitted to work in excess of 40 hours per week or work on a holiday.

“Overtime pay” means time paid at a rate of time and one-half for “actual hours” worked in excess of 40 hours per week or two times the regular rate for authorized work on holidays.

“Position” means an individual job within the classified system.

“Probationary employee” means a newly-hired or promoted employee serving in an introductory, evaluative period.

“Probationary period” means the period of time during which a newly-hired or promoted employee serves in an introductory, evaluative period.

“Probationary status” means the employment status of a newly-hired or promoted employee during the probationary period.

“Promotion” means any change in an employee’s position or class that results in a higher pay grade.

“Range” means the span of salaries within a pay grade, divided into a progression of salary steps.

“Reasonable accommodation” means any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to enjoy equal employment opportunities.

“Reclassification” means the reassignment of a position from one class to another class.

“Regular” means for purposes of this personnel policy, a tenured person who occupies a position within the classification and compensation plan established by these rules; not a contract, part-time or temporary employee.

“Resignation” means voluntary separation of an employee from the Judicial Branch’s employment at the employee’s option.

“Step” means a number used in the compensation plan to identify a pay division within a pay grade.

“Supervisor” means an employee to whom authority has been delegated to direct and control the work of one or more other employees.

“Suspension” means temporary separation from employment without a permanent change in employment status which may be with or without pay.

“Tenured employee” means an employee who has successfully completed his or her probationary period and has become a regular employee of the Judicial Branch.

“Termination” means involuntary separation of an employee from the Judicial Branch.

“Transfer” means any change of position or class to another position or class at the same pay grade, or any change to a different location within the Judicial Branch at the same pay grade.

“Wage survey” means a study conducted to determine prevailing rates for salaries and fringe benefits of positions.

SECTION 1: GENERAL PROVISIONS

- 1.1 Authority.** These rules are promulgated by the Chief Justice of the Judicial Branch of the Virgin Islands pursuant to the authority vested in Title 4, Virgin Islands Code.
- 1.2 Citation.** These rules shall be known and may be cited as the Judicial Branch of the Virgin Islands' Personnel Rules. The Office of the Administrator of Courts shall establish such procedures as may be necessary to implement these rules.
- 1.3 Purpose.** The purpose of these rules is to provide a uniform, comprehensive and effective system of personnel administration for the Judicial Branch of the Virgin Islands which is consistent with federal and local laws. This manual **IS NOT** an expressed or implied contract of employment.
- 1.4 Scope.** These rules shall apply only to employees of the Judicial Branch with the exception of Judicial Officers. The rules do not apply to persons who provide services for the Judicial Branch of the Virgin Islands as independent contractors.
- 1.5 Acceptance of Employment.** The acceptance of an appointment to any position covered by these rules signifies an acceptance of these rules by the employee as part of the employment agreement. All employees shall be given a copy of the Personnel Rules and shall sign for same upon receipt. Newly-hired employees shall sign for same upon acceptance of employment. Employees shall familiarize themselves with its contents and discuss any concerns with Human Resources or his or her supervisor.
- 1.6 Computation of Time.** In computing any period of time prescribed or allowed by these Personnel Rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included (i.e. that day shall not be counted in computing the time). If the calendar day falls on a weekend or legal holiday, the time period will be extended to the next regular business day. A day will be regarded as a calendar day unless otherwise noted.
- 1.7 Types of Employment.** The three (3) main types of employment arrangements that may categorize an employee's status are: Regular; Part-time and Contract.
- a. For the purposes of this manual, a regular employee is a full-time employee who has passed the initial probationary period, and is accorded the same status of a tenured employee. Such an employee occupies a position that is classified on the compensation plan, and consistently works 35 hours or more per week or 70 hours or more a pay period.
 - b. For the purposes of this manual, a part-time employee is an employee who consistently works less than 35 hours per week or 70 hours per pay period. A part-time employee may be on a temporary assignment for a specified period of time or may hold that status for an indefinite period of time. Part-time employees are not entitled to some of the same benefits as regular employees, except as allowed by the Government's retirement benefit plan.
 - c. A contract employee is an employee who works either on a full-time or part-time basis for a specified period of time. This may include student interns and other individuals who are assigned to special projects, who are hired on a casual or per diem basis, and are not entitled to benefits as

tenured employees. Law clerks are also regarded as contract employees; however, they receive the same benefits as tenured employees.

1.8 Personnel Rules Review Committee. The Personnel Rules Review Committee is responsible for the review of the Personnel Manual, as may be needed to aid in the administration of the Judicial Branch.

- a. The Personnel Rules Review Committee shall consist of a Judicial Officer appointed by the Chief Justice, who shall serve as Chairperson; a Human Resources Representative; Administrator of Courts; two (2) non-supervisory employees (one from each District), and General Counsel. The employees in each District shall select their non-supervisory representative from among the employees who shall serve a term of two years. The Administrator of Courts shall be responsible for this process.
- b. The Personnel Rules Review Committee shall be responsible for notifying Judicial Branch employees of the rules review process, obtaining suggestions for rules modification, reviewing suggestions from employees and Judicial Branch administration, determining which rules to modify and the nature of each modification, notifying employees of potential rule changes, allowing for comment, and presenting recommended changes to the Chief Justice with the rationale for each potential modification. Careful consideration shall be given to the cost and practicality of each modification.
- c. The Personnel Rules Review Committee shall meet every two years, or as needed, to review and recommend modifications and revisions to the personnel rules. The Personnel Rules Review Committee shall submit the proposed revisions, modifications, and/or addenda to the personnel rules to the Chief Justice for approval.

1.9 Management Rights. The Judicial Branch reserves the exclusive right and responsibility to manage the operations of the Judicial Branch, to direct the employees of the Judicial Branch, to execute and enforce its policies and procedures and to make any decision necessary to maintain the efficiency of its operations. The Judicial Branch further reserves the right to change or modify any provision within this manual at any time, to address and resolve any issue not specifically contained in these Personnel Rules, and to resolve any question or interpretation of the policies contained herein in a manner which does not unduly interfere with the operation of the Judicial Branch or the attainment of its goals, objectives, or mission.

SECTION 2: APPOINTMENT AND RECRUITMENT PROCEDURE

2.1 Equal Employment Opportunity Statement. The Judicial Branch of the Virgin Islands is an equal opportunity employer. Employment discrimination based on race, color, religion, gender, sexual orientation, age, disability, national origin, creed, or such other categories, as defined by federal or local laws is prohibited. Equal opportunity encompasses all aspects of employment practices to include, but not limited to, recruiting, hiring, training, compensation, benefits, promotions, transfers, layoffs, recall from layoffs, discipline, and department-sponsored educational, social, and recreational programs. Additionally, it is the policy of the Judicial Branch to provide its members a viable means for communicating and resolving grievances and

complaints regarding unlawful discriminatory employment practices. Employees should notify Human Resources of any unlawful or discriminatory conduct. Human Resources will meet with the respective individuals, conduct the necessary investigations and render a decision, in accordance with Section 8.3. Any employee of the Judicial Branch who fails to comply with this policy is subject to appropriate disciplinary action.

- 2.2 **Assignment of Duties.** The Administrator of Courts shall designate the staffing pattern for each location within the Judicial Branch, which shall contain the number of full-time and part-time classified positions by title, the pay grade for each position, and any such other information as may be determined. The staffing pattern may be revised to accommodate changing requirements for the administration of the Judicial Branch at any time. All decisions regarding the staffing pattern shall be final, and not subject to appeal, review, or grievance procedures set forth in these rules.
- 2.3 **Job Posting/Vacancy Announcements.** When vacancies occur for positions within the Judicial Branch, they shall be circulated via e-mail and posted in conspicuous areas within the Judicial Branch, including employee lounges and bulletin boards and on the Judicial Branch's website. (See also Section 2.5 Preference for Current Employees) The announcement shall contain all pertinent information regarding the position and the application closing date.
- 2.4 **Application and Recruitment.** When an individual applies for employment with the Judicial Branch of the Virgin Islands, is recruited for employment by the Judicial Branch, or when an employee applies for a new or vacant position, or a position transfer, that individual or employee must complete and submit an application and a current résumé to Human Resources. All applications must be signed either electronically or by physical signature by the person applying for the job or a legal designee to be considered. Applications may be obtained in both districts from Human Resources or the Judicial Branch's website. All successful candidates must submit to pre-employment drug screening (See also Section 6.9 Drug and Alcohol Use) which shall be administered under the auspices of the Human Resources Division. All applicants will be considered based on their ability to meet the minimum qualifications for the position as established by the job description.
- 2.5 **Preference for Current or Former Employees.** Judicial Branch of the Virgin Islands employees may be considered for vacancies that may result in a promotion or transfer before the vacancy is advertised to the general public. Former employees who are eligible for re-hire shall also be considered before the general public. In exigent or emergency circumstances, or when time is of the essence in the filling of a position, at its sole discretion, the Administrator of Courts may make emergency or provisional appointments as necessary, including former employees, regardless of the terms of separation, provided that upon completion of 60 days of service, said appointee shall be subject to a performance evaluation which if fully satisfactory, may at the discretion of the appointing authority, make said appointee eligible for regular appointment. Internal and external recruiting may occur simultaneously if it is determined to be in the best interest of the Judicial Branch. Vacancies shall be conspicuously posted in the Judicial Branch in each district for 10 working days to give employees an opportunity to apply for the position. This policy does not apply to independent contractors or contract employees.

- 2.6 **Examinations.** All applicants shall take the tests which are necessary to determine his or her fitness for the position and may be required to submit additional information or documents. Tests shall be approved by the Administrator of Courts and subsequently administered by Human Resources. All examination materials and test results shall be stored in Human Resources and shall remain confidential. A record of the examination results, interviews, application package and all other pertinent materials used in the hiring process for all applicants shall be maintained in the personnel file of those applicants who are hired. For applicants not hired, Human Resources shall maintain the aforementioned for a period of one (1) year from the date of the application; after which such records may be destroyed. Examination materials and results, including interviews, shall be confidential and shall be so handled by all persons who have access to the material. The records of examinations and interviews and all other materials used in the hiring process for all applicants shall be maintained for a period of three years from the date of hire.
- 2.7 **Request for Accommodation.** Any employee or an applicant who requires reasonable accommodations as a part of the hiring or promotion process must inform Human Resources, in writing, at least three (3) business days prior to any examination or interview. Additional information, may be required in considering the request.
- 2.8 **Interviews.** An interview may be granted to each applicant and, in some instances, a follow-up interview may be required. The appearance, demeanor, communication skills, qualifications, training, job related knowledge and experience shall be considered in the overall evaluation of the applicant. Interviews to fill vacant positions will be conducted by a panel of at least two (2), but preferably three (3) individuals that should include the supervisor for the position to be filled, Human Resources, and the administrative authority or designee for the location. Panel members may be substituted in cases of vacancy, absence or other circumstances that arise that would not allow for the full panel to be present. No appeals or request for review can be made based on the absence of one of the prescribed positions being unable to attend. Each member of the panel shall evaluate the applicant using the same rating sheet. Human Resources shall report the recommendation of the panel to the administrative authority along with Human Resources' assessment of the applicant and other information obtained by Human Resources regarding the applicant. Recommendations for positions shall be made from the top applicants for the position as determined by a review of the qualifications and other applicable factors of each applicant. Thereafter, the, administrative authority shall render a decision for submission to the Chief Justice for approval. Unsuccessful applicants will be electronically notified of the decision.
- 2.9 **Appointments.** Upon final approval by the Chief Justice or designee, the applicant shall be extended a written employment offer and upon acceptance, be appointed, subject to the receipt of any outstanding information required. Appointment to all positions shall be made from the top applicants for the position as determined by a review of the qualifications of each applicant.
- 2.10 **Hiring Salary.** New appointments shall normally be made at the initial step of the appropriate grade, except that such considerations as existing pay, unusually high or unique qualifications of the applicant or a special need of the Judicial Branch for particular skills may warrant appointment at a salary above the initial step of the appropriate grade. In such cases, a written statement outlining the reasons for such action will be made a part of the employee's personnel file.

2.11 Relatives in the Workplace.

- a. The Judicial Branch permits employment of qualified relatives of the employee's household or immediate family as long as such employment does not, in the opinion of the Judicial Branch, create actual conflicts of interest through direct or indirect supervisory, appointment, or dismissal authority over a relative; or being in a position to take disciplinary action over another family member; would audit, verify, receive, or be entrusted with moneys received or handled by another family member; or, have access to the employer's confidential information, including payroll and personnel records. For purposes of this section only, "immediate family" is defined as a spouse, child, parent, sibling, grandparent, grandchild, aunt, uncle, first cousin, corresponding in-law, "step" relation or any member of the employee's household.
- b. Individuals who are related by blood, marriage, adoption, or reside in the same household are permitted to work in the same division, provided no direct reporting or supervisory relationship exists. That is, no employee is permitted to work within the "chain of command" when one relative's responsibilities, salary, hours, career progress, benefits, or other terms and conditions of employment could be influenced by the other relative.
- c. Related employees shall have no influence over the wages, hours, benefits, career progress, and other terms and conditions of the other related staff members.
- d. Employees who marry each other or become part of the same household while employed with the Judicial Branch are treated in accordance with the provisions of this section. If a conflict arises as a result of the relationship, one of the employees may be transferred to another division. The individuals concerned will be given the opportunity to decide who is to be transferred to another available position. If that decision is not made within thirty (30) days, the Administrator of Courts will decide who is to be transferred or, if necessary, terminated from employment with the approval of the Chief Justice. An employee transferred to a like position has no rights to grieve or appeal and shall remain at the same level of compensation.
- e. The Judicial Branch reserves the right to transfer an employee to another division if a conflict arises as a result of the employees' relationships even though no direct reporting or supervisory relationship exists between the related employees.
- f. All applicants must state on their employment application whether they are related to an employee of the Judicial Branch and indicate the relation. Employees who marry each other or become a part of the same household while employed with the Judicial Branch shall immediately inform Human Resources and the administrative authority accordingly.

2.12 Special Skills. Where the need for special skills, training, or expertise exists and qualified applicants are not available within the U.S. Virgin Islands, recruitment of such skilled employees outside the territorial limits may be conducted. When such recruitment is undertaken and an applicant has been selected for employment, relocation assistance may be offered as stated in Section 2.13.

2.13 Relocation Agreement and Expenses. When an applicant, who lives outside the U.S. Virgin Islands, has been selected for employment he or she must sign a Relocation Agreement committing

himself or herself to remain an employee of the Judicial Branch of the Virgin Islands for at least one (1) year from the date of employment. The Relocation Agreement shall also provide for the reimbursement of expenses of travel for the new appointee and his or her immediate family and expenses of transportation of their household goods and personal effects, including vehicles, from their place of actual residence to the U.S. Virgin Islands, following the acceptance of an employment offer. Incidental expenses, including, but not limited to, meals, rent/mortgage, car rental, hotel accommodation, pets, relocation loan reimbursements, etc. shall not be reimbursed by the Judicial Branch.

Reimbursement of travel and transportation expenses to the U.S. Virgin Islands shall not exceed \$2,000, subject to submission of verifiable receipts. All receipts shall be submitted to Human Resources no more than ninety (90) days from the date of hire or the appointee shall forfeit reimbursement for that particular expense. If the appointee does not remain in the employ of the Judicial Branch for at least one (1) year from the date of employment and in the discretion of the Judicial Branch, the appointee has not provided just cause, he or she shall refund the Judicial Branch any relocation expenses paid by the Judicial Branch within 30 days after separation. The Judicial Branch reserves the right to deduct any sums owed to the Judicial Branch from the employee's final paycheck. Nothing in this section obligates the Judicial Branch to pay the appointee's actual or incidental costs to leave the U.S. Virgin Islands.

- 2.14 **References.** It is the policy of the Judicial Branch to verify the employment references, including military service, of all prospective and promotional employees. The Judicial Branch relies upon the accuracy of information contained in employment applications, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in exclusion of the individual from further consideration for employment, or if the person has been hired, in termination of employment.
- 2.15 **Job Descriptions.** Every employee shall be given a job description for the position for which he or she is hired. Each job description shall identify the duties and responsibilities of the position; educational degree, if required; qualification and experience desired; salary range; and any other relevant information. All job descriptions shall be maintained by Human Resources and made available to employees when applying for other positions within the Judicial Branch. Job descriptions and titles may be changed at any time based on business needs.
- 2.16 **Reclassification of Positions.** Whenever Human Resources determines through investigation or analysis of the duties and responsibilities of any existing position, whether filled or vacant, that the position is improperly classified, the position may be reassigned to a position or class of a more appropriate title or classification. Human Resources may initiate a reclassification review at any time and may require any employee to submit a summary of duties and responsibilities to assist in the review. An employee may also request a modification or reclassification of his or her position by submitting such request, in writing, to Human Resources, detailing his or her justification for the modification or reclassification. The request shall be accompanied by comments of the immediate supervisor responsible for the position. Additional information may be requested as needed.
- a. **Modification of the Classification Plan.** The classification plan identifies the position and

associated salary range for each position, and may be modified based on operational needs, including but not limited to, the addition or abolishment of positions or classes of positions, changes in position or class titles, reassignment of the position or class to a different salary grade, and changes in position or class descriptions at any time following reasonable notice of the proposed modifications to all employees serving in positions that would be directly affected by any proposed modifications. The notice shall specify a time in which affected employees may file written comment prior to any decision to adopt the proposed changes. Human Resources shall provide reasonable notice to all affected employees of modifications to the classification plan. An employee who is adversely affected by modifications to the classification plan may initiate a reclassification appeal under the provisions of this rule, except that an employee who is subject to layoff as a result of a decision under this rule shall have no right to appeal, review, or grievance.

- b. Request for Classification Review. Reclassifications may be requested by employees or supervisors who are incumbents of specific positions or classes. No such request shall be made within eighteen (18) months after a reclassification decision under this rule concerning the same position, or following a decision concerning the same position, or following a decision by the Reclassification Review Hearing Officer concerning the same position. Each request for review shall be in writing and accompanied by a summary of the changes in duties and responsibilities prompting the request, and shall be accompanied by comments of the immediate supervisors responsible for the position. Human Resources may request additional information as needed to review the request and submit a recommendation to the Administrator of Courts, along with the supporting documentation. Final approval of the modification or reclassification of a position rests with the Administrator of Courts. Human Resources shall issue a written decision to the party requesting reclassification review within ninety (90) days after receipt of the request. An employee who opposes the modification or reclassification of his or her position, or who does not receive a response within the ninety (90) day period, may grieve such decision or non-response in writing using the steps outlined in 2.16 (e).
- c. Effect of Reclassification Action. Individual salary adjustments that result from a reclassification review will be treated as a transfer, promotion, or demotion in accordance with Section 2.17 (c). The effective date of any position reclassification shall be the first working day of the pay period following the approval by the Administrator of Courts or the ruling by the Reclassification Review Officer, except that the effective date may be deferred pending availability of funds. In no event shall a reclassification be made retroactive.
- d. Reclassification Review Hearing Officer. A Reclassification Review Hearing Officer shall be appointed by the Chief Justice. The Hearing Officer shall be a judicial officer or other Judicial Branch official.
- e. Right of Appeal. Except as otherwise provided in these rules, an employee who is adversely affected by a reclassification review or modification to the Classification Plan, or whose review was not concluded within ninety (90) days, may appeal the reclassification. The appeal must be filed within thirty (30) days after official notice of the reclassification or modification is given, or within thirty (30) days after failure to meet the established deadline above. The appeal must be made in writing setting forth the reasons why the employee believes the decision concerning modification of the classification plan or

concerning reclassification to be in error, or the reasons why the requested reclassification would be appropriate, and shall include documentation in support of the employee's statement. Appeals shall be filed with Human Resources. Within thirty (30) days of receipt of an appeal and accompanying documents, Human Resources shall submit the appeal and all accompanying documents to the Chief Justice or his or her designee with a copy to the Administrator of Courts. The evaluation and recommendations and all supporting documentation which were used in making the decision under appeal must also be submitted. Human Resources shall deliver a copy of these materials to the appealing employee.

- f. Decisions of the Appeal. The Reclassification Review Hearing Officer shall review all materials in a summary fashion on the basis of the information supplied by the parties. The officer may use discretion to request additional written material or grant oral argument based upon motion by either party. If the Hearing Officer grants oral argument, each side shall be permitted to argue its position, but not to present testimony, introduce evidence, or cross-examine. The Hearing Officer shall have the power to question the parties during oral argument and to request additional information from the parties to assist in its decision. The Hearing Officer shall make a decision within thirty (30) days of the receipt of an appeal, unless oral argument is granted, in which case the decision shall be made within thirty (30) days after oral argument. The Chief Justice or his or her designee may extend the timeframe for cause. The decision of the Hearing Officer shall be final, and shall not be subject to the appeal, review, or grievance procedures set forth in these rules.

2.17 Compensation Plan.

- a. Establishment. There will be established within the Judicial Branch of the Virgin Islands a Compensation Plan, in which each position or class of positions offered shall be assigned to a pay grade containing a range of steps, which shall denote a salary range, based upon relative responsibilities of the duties of the position within the Judicial Branch, comparability to prevailing rates, and other pertinent salary and economic data. It is the responsibility of Human Resources to establish, maintain, administer and regularly review the compensation plan. The salary schedule is created so that an employee who begins at the first step of a range would not normally reach the last step of that particular range in less than 15 years of service and annual increases. This should not be construed as an implied contract of the schedule of increases to be given, but a helpful guide during normal funding cycles.
- b. Adjustment to the Compensation Plan. Annually, the Administrator of Courts shall recommend to the Chief Justice adjustments, if any, to the compensation plan based upon changed circumstances or pertinent factors concerning prevailing rates, economic factors, other salary survey information, and budget constraints. Upon approval, these adjustments shall become effective on October 1 each year, or as otherwise designated. The decision of the Chief Justice shall be final, and not subject to the appeal, review, or grievance procedures set forth in these rules. The decisions as to whether to undertake a review, as to the extent and manner of such a review, and as to the outcome of any such review shall be final and shall not be subject to the appeal, review, or grievance procedures set forth in these rules.
- c. Individual Salary Adjustments. The compensation plan shall be administered as noted in the below events:

- i. Following a Transfer. When an employee is transferred to a comparable position in the same grade, his or her pay shall not change.
- ii. Out-of-Step Promotion. An employee who is appointed by the Chief Justice or his or her designee in an acting capacity in a position in a higher grade than the one for which he or she was hired shall be compensated in accordance with subsection vii below. Such out-of-step promotion is considered a temporary promotion until the position is filled in accordance with the regular hiring and promotion practices. When an employee is designated acting, the new salary shall be established at the first step of the higher grade if the new salary is an increase of more than 5%. If promotion to step 1 is less than 5%, the employee shall be placed at the step closest to but not higher than a 5% increase within the new pay grade.
- iii. Following a Promotion. When an employee is promoted, the new salary shall be established at the first step of the higher grade if the new salary is an increase of more than 5%. If promotion to step 1 is less than 5%, the employee shall be placed at the step closest but not higher than a 5% increase within the new pay grade.
- iv. Following a Demotion. When an employee moves between positions and is assigned to a lower grade than their current salary grade, it is classified as a demotion. In such cases, there is at least a 5% decrease from the current class as compared to the new class.
- v. Voluntary Demotion. When an employee voluntarily demotes to a lower classification, the salary of the employee in the new position shall be negotiated and in no circumstances may the salary increase. The new rate of compensation shall align with the same grade and step of the new classification.
- vi. Involuntary Position Downgrade. If an employee's position is downgraded involuntarily due to pay grade adjustment, transfer or reclassification of the position, the employee shall be assigned to the new salary range at their current salary, including base pay and educational incentives. If the current salary exceeds the salary range maximum for the new classification, the employee's salary will be frozen. If an employee's salary has been frozen under this section, the employee shall not be eligible for wage increases until adjustments to the compensation plan cause the frozen salary to fall within the salary range for the new classification, or for a minimum of the three years from the date of the position downgrade. In no event shall the salary remain frozen after five years. If the employee's salary does not fall within the new salary range after this period, or the salary was not adjusted after the minimum three year period, the employee will be assigned to the salary range maximum for the classification, effective the first of the month following the expiration of the five year period.
- vii. Effect of Action. The effective date of any individual salary adjustments that result from any of the above personnel actions (reclassification, transfer, out-of-step promotion, promotion, or demotion), shall be the first working day of the pay period following the approval, except that the effective date may be deferred pending availability of funds. In no event shall a reclassification be made retroactive.

SECTION 3: EMPLOYEE RELATIONS

- 3.1 Place of Work.** Upon hire, all employees are instructed as to their primary place of work. Employees must report to their primary workplace unless directed otherwise to report to an alternate location.

- 3.2 Office Hours.** The Judicial Branch's regular work hours are Monday to Friday, 8:00 am to 5:00 pm. The work week for a full-time employee shall be 40 hours from any established seven (7) day period, which shall be from Sunday at 12:00 am to the next Saturday at 11:59 pm, unless otherwise specified. Specific schedules may be established for employees by their supervisors in consultation with the administrative authority. One hour may be taken for lunch daily between the hours of 12:00 noon to 2:00 p.m. However, lunch may be taken at other appropriate times for the convenience of the Judicial Branch, with the approval of the employee's supervisor. Employees will be relieved of all active responsibilities and restrictions during meal periods and will not be compensated for that time. If an employee is required to work through a meal break, or for any part of that meal break, that time shall be compensated and included in any overtime calculations, in accordance with Section 3.10.

Employees are also entitled to a 15-minute rest period within each four (4) hours of continuous work. Time allotted for the rest period shall not be used by the employee to add or subtract time from his or her lunch hour, arrival or departure time to or from work, or the grace period. The Judicial Branch of the Virgin Islands shall be deemed always open for the purposes of filing any emergency paper or motion, issuing and returning any emergency process, and issuing any emergency order. Throughout the work hours, employees from each division shall be available so the Judicial Branch may continue to function in an orderly manner.

- 3.3 Time and Attendance.** The Judicial Branch of the Virgin Islands shall maintain Time and Attendance Records for all employees. All employees are required to use the biometric time clock system to record their hours worked. Specifically excluded from using the biometric time clock are judicial officers, administrative authorities and any other position designated by the Administrator of Courts. All other employees are required to record the time they begin and end their work, as well as the beginning and ending time of each meal and break periods. They must also record the beginning and ending time of any split shift or departure from work for personal reasons. All leave types are charged to the employee either by whole days, whole hours, or to the nearest quarter hour.

Employees are allowed three (3) 15-minute grace periods in a pay period in which no penalty shall be imposed. The 15-minute grace period shall not be added to the 15-minute rest period in Section 3.2 above. If an employee is tardy for a fourth time within the same pay period, he or she will be paid only for the hours actually worked. The employee may, however, request to use applicable leave by indicating same to the supervisor. If an employee is absent for eight (8) or more hours, a leave slip must be submitted to the supervisor within 48 hours upon returning to work or leave may not be paid within the applicable pay period.

Computation of time shall be based on the “7/8 rule”. Hours worked will be tracked in 15 minute increments. Employee time from one (1) to seven (7) minutes must be rounded down and not counted as hours worked and employee time from eight (8) to fourteen (14) minutes must be rounded up and counted as a quarter hour of work time.

If an employee for any reason is unable to report to work for the scheduled time, he or she must notify his or her immediate supervisor or the administrative authority, within the first 30 minutes of the normal starting time unless extraordinary circumstances so prohibit. The employee’s supervisor may consider the employee’s tardiness or absenteeism in evaluating the employee if there is a pattern of habitual tardiness or absenteeism and recommended disciplinary action.

3.4 Incentive Awards. In order to provide incentives for employees to maintain excellent attendance and exemplary performance, the Judicial Branch may award watches, pendants, or monetary value awards.

The following monetary awards shall be presented on an annual basis to qualifying employees, subject to the availability of funds:

a. Years of Service. Years of Service awards are given in five year increments. Only one award will be given per year.

i. 5 years of service	\$100 gift and certificate
ii. 10 years of service	\$200 gift and certificate
iii. 15 years of service	\$300 gift and certificate
iv. 20 years of service	\$400 gift and plaque
v. 25 years of service	\$500 gift and plaque
vi. 30, 35, 40 years of service	\$600 gift and plaque
vii. Retirees	\$600 gift and plaque

b. Employee of the Year. Special performance awards may also be presented to employees for outstanding service or noteworthy performance during the year. The presentation of these awards will be coordinated with the annual awards of the Central Government, subject to the discretionary powers of the Chief Justice to supplement those awards. Each year one employee from each district shall be selected by the employees in that district as “Employee of the Year”, based on the employee who receives the highest number of votes. The following criteria shall be used to determine the “Employee of the Year”:

- 1) Good record of on-time attendance in the preceding 12 months, as supported by the official Time and Attendance Record;
- 2) No disciplinary actions;
- 3) Satisfactory or better performance rating;
- 4) Sustained practice of courteous and professional customer service or intra-office relations; and
- 5) At least one specific instance of noteworthy performance or outstanding service to the Judicial Branch in the preceding year.

A nominated employee may be disqualified if any of the above criteria is not met.

- c. **Chief Justice's Award.** Each year, one employee shall be selected to receive the "Chief Justice's Award", based on the stellar performance of the employee, subject to the discretion of the Chief Justice.

Supervisors from the various divisions may recommend employees for the "Chief Justice's Award" or other special awards by submitting the name(s) of the employee(s), in writing, to the Chief Justice; detailing why the employee deserves the award.

The presentation of these awards may be made at various times throughout the year subject to the availability of funds.

- 3.5 Pay Procedure.** Employees shall be paid every two weeks on Thursday, except when Thursday falls on a holiday and/or the Department of Finance determines an alternate pay day is warranted. Pursuant to current procedures established by the Department of Finance, new employees will not receive their initial paycheck until their fourth week of employment. Bi-weekly paychecks are computed by dividing the annual salary by twenty-six (26). The hourly rate can be derived by dividing the bi-weekly rate by eighty (80). Upon termination of employment, a final check will be issued to the employee approximately two (2) weeks following the last pay period during which the individual was employed.

- 3.6 Probationary Period.** An employee first hired or re-hired by the Judicial Branch, shall be automatically placed on probation for a period of six (6) months. Whenever an employee is promoted to a higher grade or transferred to another position within the same grade, he or she shall be placed on probation for three (3) months. An employee who leaves continuous employment of non-protected leave for more than 120 days will be required to serve a new three month probationary period. The 120 days begins on the last day of employment and the first day of reemployment. The employee's performance will be evaluated during the probationary period by his or her supervisor. If, in the opinion of the applicable administrative authority, based upon good cause after consultation with the employee's supervisor, the probationary period should be extended, the employee will be informed. In no event shall the extended probationary period exceed an additional six (6) months for new hires and an additional three (3) months for those employees who are promoted, re-hired or transferred to another position. This provision shall not apply to at-will employees. However, should an at-will employee move to a non at-will position, they shall serve a six (6) month probationary period.

If at the end of the probationary period the probationary performance evaluation results in a "satisfactory" rating, the new appointee will become a regular employee and the existing employee who was promoted, re-hired or transferred shall retain the promotion or transfer. A rating is "satisfactory" if the employee receives a "meets standards" or "exceeds standards" rating. A performance evaluation is meets standards if the employee receives a combined rating of "meets" or "exceeds standards" in 75% or more of the core functions and the general functions of the position but does not "exceed standards" in 60% or more of the categories. A performance evaluation "exceeds standards" when the employee has received a rating of "exceeds standards" in 60% or more of the core functions and the general functions of the position and a "meets standards" rating in all other categories.

If, during, or at the end of the probationary period, the employee's performance is unsatisfactory, as evaluated by the supervisor and approved by the administrative authority, then the termination of the new employee, or the withdrawal of the promotion or transfer, for an existing employee, as the case may be, shall be recommended by the administrative authority, to the Chief Justice for the final decision.

An unsatisfactory performance evaluation is a performance evaluation in which the employee receives an “unsatisfactory” or “needs improvement” rating. A rating is “unsatisfactory” if an employee receives an “unsatisfactory” rating or a “needs improvement” rating in:

- (a) 50% or more of the core functions, duties, and responsibilities of his or her position; or
- (b) 50% or more of the general functions, duties, and responsibilities of his or her position; or
- (c) 50% or more in both of the core and general functions, duties, and responsibilities of his or her position.

If the probationary evaluation results in a “needs improvement” rating, then the termination of the probationary employee may be recommended or the administrative authority may recommend that an action plan be developed to assist the newly appointed or existing employee in meeting the standards and to evaluate their progress. The action plan may include extending the probationary period for an additional two to three month period at the conclusion of which the employee shall be reevaluated. If the employee fails to receive a satisfactory evaluation at the end of the second probationary period, then he or she may be treated as if they had received an unsatisfactory evaluation. For good cause, upon the recommendation of the administrative authority, the Chief Justice may, in his or her discretion, authorize a second extension of the probationary period for up to an additional three months for an existing employee.

A performance evaluation that results in a determination that the employee “needs improvement” is one in which the employee receives an “unsatisfactory” rating or a “needs improvement” rating in:

- (a) more than 25% but less than 50% of the core functions, duties, and responsibilities of his or her position; or
- (b) more than 25% but less than 50% of the general functions, duties, and responsibilities of his or her position; or
- (c) more than 25% but less than 50% in both the core and general functions, duties, and responsibilities of his or her position.

3.7 Annual Performance Evaluation. All employees shall be evaluated annually on the anniversary date of his or her initial employment with the Judicial Branch or on the anniversary date of his or her latest promotion or transfer, whichever date is later. Ratings will be completed by the employee’s immediate supervisor, and reviewed by the administrative authority. A copy of the review shall be provided to the employee prior to the meeting with their supervisor. During a performance review, employees will meet with the supervisor who conducted the rating. If the employee raises no concerns regarding the ratings, the supervisor and the employee shall sign the evaluation. The evaluation will be forwarded to the administrative authority for signature and submitted to Human Resources for processing and filing in the employee’s personnel file. If the employee raises some concerns, the supervisor shall schedule a meeting to discuss the employee’s concerns, between the employee, the supervisor, and the administrative authority, who may either

request the assistance of the Human Resources Division, or may determine that the ratings are justified and authorize the supervisor to sign and process the evaluation.

Thereafter, the evaluation is submitted to Human Resources for processing and shall become part of the employee's personnel files. The employee will be provided with a copy of the fully signed evaluation. Such evaluations may be accompanied by a salary adjustment. The salary adjustment for an employee occupying a full-time position who has not reached the maximum rate of pay for the grade in which his or her position is placed is as follows:

- a. Following a Satisfactory Performance Evaluation. The employee shall advance in pay to the next higher step within the grade, effective at the beginning of the next pay period following 52 weeks of service; subject to the availability of funds and the ability of the Judicial Branch to meet its obligations as determined in the sole discretion of the Chief Justice. A performance evaluation is satisfactory if the employee receives a "meets standards" rating. A "meets standards" rating is a combined rating of "meets" or "exceeds standards" in 75% or more of the core functions and the general functions of the position but does not "exceed standards" in 60% or more of the categories.
- b. Following an Exceeds Standard Performance Evaluation. The employee shall advance in pay to the next higher step within the grade, effective at the beginning of the next pay period following 52 weeks of service; subject to the availability of funds and the ability of the Judicial Branch to meet its obligations as determined in the sole discretion of the Chief Justice. Additionally, a merit award may be granted annually, at the discretion of the Chief Justice, for employees whose performance rating exceeds standards. The administrative authority and the employee's supervisor shall submit the name(s) of such employee(s) to Human Resources who shall forward those name(s) and any supporting documents to the Administrator of Courts. The award will be \$500 and is subject to the availability of funds. A performance evaluation exceeds standards when the employee has received a rating of "exceeds standards" in 60% or more of the core functions and the general functions of the position and a "meets standards" rating in all other categories.
- c. Following an Unsatisfactory Performance Evaluation. The employee shall not advance to the next step following an unsatisfactory performance report. An unsatisfactory performance evaluation is a performance evaluation in which the employee receives an "unsatisfactory" or "needs improvement" rating. However, if written evidence of improved performance at a satisfactory level is received by the Human Resources Division, the employee's pay will be adjusted to the next step 6 months after the re-evaluation. If the employee's performance is unsatisfactory, as evaluated by the supervisor and approved by the administrative authority, then the administrative authority may recommend that an action plan be developed to assist the employee who received a "needs improvement" rating in meeting the standards and to evaluate their progress. The action plan may include extending the evaluation period for an additional three to six month period at the conclusion of which the employee shall be reevaluated.

If an employee fails to receive a satisfactory evaluation at the end of the extension period, then he or she shall not advance to the next step until written evidence of improved performance at a satisfactory level is received by the Human Resources Division. If the employee who

received a “needs improvement” rating fails to receive a satisfactory evaluation at the end of the second evaluation period, then he or she may be treated as if they had received an “unsatisfactory” rating. For good cause, upon the recommendation of the administrative authority, the Chief Justice may, in his or her discretion, authorize a second extension of the evaluation period for up to an additional three month period. An unsatisfactory performance evaluation is a performance evaluation in which the employee receives an “unsatisfactory” rating or a “needs improvement” rating in:

- (a) 50% or more of the core functions, duties, and responsibilities of his or her position; or
- (b) 50% or more of the general functions, duties, and responsibilities of his or her position; or
- (c) 50% or more in both of the core and general functions, duties, and responsibilities of his or her position.

A performance evaluation that results in a determination that the employee “needs improvement” is one in which the employee receives an “unsatisfactory” rating or a “needs improvement” rating in:

- (a) more than 25% but less than 50% of the core functions, duties, and responsibilities of his or her position; or
- (b) more than 25% but less than 50% of the general functions, duties, and responsibilities of his or her position; or
- (c) more than 25% but less than 50% in both the core and general functions, duties, and responsibilities of his or her position.

3.8 Access to Personnel Files. The Division of Human Resources shall maintain a complete and official personnel file for each employee and shall maintain its confidentiality. These files shall contain only official communications directly related to employment and work performance. Anonymous communications shall not be contained in these files. No information which may be harmful or prejudicial to an employee shall be placed in a personnel file unless and until the employee has been given a copy thereof. Employees may review their own personnel file in the Human Resources office in the presence of a Human Resources employee during office hours at a time mutually agreed upon. Employees shall not remove their personnel file from the Human Resources office but may obtain copies of documents within the file. If requested, changes may be made to the employee’s own personnel file by submitting a request for change to the administrative authority. If for any reason a change is rejected, the employee may then submit a statement describing any disagreement with any document in the personnel file, and that statement shall become a part of the file. Requests for access to information contained in an employee’s personnel file, shall not be granted without the written approval of the employee, except for internal purposes where there is a valid need to review the file.

- 3.9 Accommodation for Physical or Mental Disabilities.** An employee requesting an accommodation for a disability shall provide Human Resources with a medical certification of any physical or mental impairment and the nature of any limitations the employee may have in performing job duties. Human Resources, the administrative authority, and the employee's supervisor, shall engage in an interactive process with the employee to:
- a. Analyze and define the essential duties and responsibilities of the employee's position.
 - b. Obtain information from the employee's medical treatment provider or from an independent medical examiner in order to determine the extent of the disability and how the disability limits the employee's ability to perform the essential functions of the position.
 - c. Consider any reasonable accommodations that would enable the employee to continue to perform the essential functions of the job without presenting any undue hardship to the Judicial Branch.
 - d. Determine which accommodations can and will be used, if any. If no reasonable accommodation can be made in the employee's current position, the administrative authority, shall consider reassignment to a vacant position for which the employee is qualified, with or without reasonable accommodations.

Within 30 days after meeting with the employee or at a later date with the agreement of the employee, the administrative authority, shall notify the employee whether an approved reasonable accommodation can be made that will allow the employee to continue to work for the Judicial Branch. If no reasonable accommodation is available or if the accommodation cannot be made without undue hardship to the Judicial Branch, the Administrator of Courts may make a recommendation to the Chief Justice for the termination of the employee, if the termination does not violate any provisions of the Americans with Disabilities Act. The employee may appeal the recommendation for termination in accordance with the provisions of Section 8. Grievances and Appeals.

An employee terminated under this section may be eligible for Social Security Disability Insurance and should contact Human Resources and the Social Security Administration for information.

- 3.10 Overtime.** Overtime is that time an employee is directed, permitted or authorized to perform work in excess of 40 hours in the employee's established seven (7) day work week. Overtime compensation will be made at the rate of time-and-a-half for each overtime hour in either compensatory time off or cash payment and at the rate of double time for working on holidays. Overtime must be authorized, in advance, whenever practicable, by the administrative authority, after consultation with the employee's supervisor.

In any event, no payment shall be made for overtime work (including holiday work) unless and until the hours worked have been reviewed and verified for payment by the employee's supervisor. In determining the amount of overtime worked in a pay period, any holiday, annual, administrative, compensatory or sick leave time paid during the payroll period, will not be counted as hours worked in determining overtime and shall be excluded from the computation.

For purposes of this section solely, the terms "exempt" and "non-exempt" are specific to the definitions established by the Fair Labor Standards Act.

- a. Eligibility for Overtime. The Administrator of Courts shall determine those classes of employees eligible for, and excluded from, overtime compensation at premium pay as defined by the Fair Labor Standards Act. The decision of the Administrator of Courts shall be final, and shall not be subject to appeal, review, or grievance.
- b. Approval for Overtime. All employees shall obtain approval of their supervisors prior to working overtime. Supervisors may approve overtime work only with authorization from their administrative authority. Failure to request such approval prior to working overtime may result in corrective or disciplinary action pursuant to these rules. The process for requesting compensatory time shall be the same as for requesting annual leave.
- c. Compensatory Time-off for Non-exempt Employees. Non-exempt employees may be paid in cash or earn compensatory time. Compensatory time shall be computed at the same rate as overtime, i.e. time and a half for each overtime hour and double time for holidays. Compensatory time may be taken in the same manner as other leave by obtaining an approved leave slip from the employee's supervisor and taking into consideration the needs of the Judicial Branch. Employees can only accumulate a maximum of 240 hours of compensatory time each calendar year. Compensatory time shall automatically "rollover" to the following year but, in no event, shall the total hours, including the "rollover" hours, exceed 240 hours for the calendar year. When an employee accrues 80 hours of compensatory leave, supervisors are required to submit a plan on how the employee will utilize the accrued hours within two months. If the plan is not submitted, supervisors may face disciplinary action. When two hundred forty (240) hours of compensatory time-off has been accrued, subsequent overtime hours shall be compensated in cash at premium pay on the next available payroll. Upon separation from the Judicial Branch, the employee shall be paid in cash for any remaining unused compensatory time.
- d. Compensatory Time-off for Exempt Employees. An employee who has been designated as exempt from paid overtime shall not receive cash payments for overtime work. Such employees shall receive compensatory time-off equal to one and one half (1 ½) times regular pay or two (2) times (where holiday work is implicated) the number of overtime hours worked at such time or times when, in the discretion of the administrative authority, the business of the Judicial Branch will not suffer. Compensatory time-off must be taken only when authorized and should be used within the calendar year in which it was earned. Compensatory time that is not used within the calendar year will be carried forward to the successive calendar year.

Every effort shall be made to schedule compensatory time-off within two (2) months following the pay period in which the overtime was worked.

3.11 Flex Time and Alternative Work Schedule. Employees are required to comply with all aspects of the Alternative Work Arrangement Programs Policy.

SECTION 4: LEAVE

- 4.1 Holiday Leave.** Holiday leave is leave with pay for any officially designated holiday as defined by the Virgin Islands government and 1 V.I.C. §171(a).

In accordance with 1 V.I.C. §171(a), the following are legal holidays in the Virgin Islands:

Every Sunday
January 1 (New Year's Day)
January 6 (Three King's Day)
Third Monday in January (Martin Luther King, Jr.'s Birthday)
Third Monday in February (President's Day)
March 31 (Transfer Day)
Holy Thursday
Good Friday
Easter Monday
Last Monday in May (Memorial Day)
July 3 (V.I. Emancipation Day) Danish West Indies Emancipation Day
July 4 (Independence Day)
First Monday in September (Labor Day)
Second Monday in October (Columbus Day and Puerto Rico Friendship Day)
November 1 (D. Hamilton Jackson Day)
November 11 (Veterans' Day)
Fourth Thursday in November (Thanksgiving Day)
December 25 (Christmas Day)
December 26 (Christmas Second Day), and such other days as the President of the United States or the Governor of the Virgin Islands may by proclamation declare to be holidays. Whenever any holiday (other than Sunday) falls upon a Sunday, the Governor by Proclamation may, in his discretion, grant administrative leave on the following Monday, except that Organic Act Day (Third Monday in June), Supplication Day (Fourth Monday in July) and Local Thanksgiving Day (Third Monday in October) shall be observed on the preceding Sunday.

Pursuant to 3 V.I.C. §560 (e) and §567 employees, including temporary employees shall be compensated for holiday pay.

- 4.2 Annual Leave.** Employees who were hired after June 30, 1968 shall earn annual leave at the following rates:

- a. 4 hours for each full bi-weekly pay period for an employee with less than 3 years of service;
- b. 6 hours for each full bi-weekly pay period for an employee with 3 years but less than 15 years of service, except that the accrual for the last full bi-weekly pay period in the year is 1 ¼ days ; and
- c. 8 hours for each full bi-weekly pay period for an employee with 15 years or more of service.
- d. Part-time employees accrue annual leave at the rate of 1 hour for every 10 hours worked.
- e. Employees shall not accrue annual leave during any periods of disciplinary suspension or leave without pay.

In general, annual leave may be used at the employee's discretion, so long as there is no pattern of abuse, for vacations or personal time in lieu of other leave that may have been depleted or for other authorized purposes. Requests for the use of annual leave, other than for vacation requests which is addressed below, must be made as far in advance as practicable and must be approved prior to commencement of the leave. Approval of leave requests shall be considered on a case-by-case basis relative to other leave requests and the paramount interest of the Judicial Branch in maintaining the efficiency of operations and the sufficiency of staffing. An absence from work without approved leave may be grounds for disciplinary action against the employee. Annual leave requests submitted after an unapproved absence from the office may be denied or granted in the discretion of the supervisor or administrative authority without prejudice to any other actions the Judicial Branch deems appropriate.

Unused annual leave shall be handled in a manner as provided for in the Virgin Islands Code. In the event that available annual leave is not used by the end of the calendar year, it shall be carried forward to the next year. The maximum that an employee can carry over into each succeeding year is sixty (60) days or four hundred eighty (480) hours. At the beginning of each calendar year, annual leave in excess of four hundred eighty (480) hours will be sent to the Government Employees' Retirement System for available service credit toward the employee's retirement.

Employees who return to work with the Judicial Branch after an absence of no more than five (5) years shall accrue leave at the rate accrued at the time of their most recent separation from the Judicial Branch. An employee who transfers directly to the Judicial Branch from another agency of the Government of the Virgin Islands shall have their service time within that agency counted in determining their accrual rate. Any accrued annual leave which has not been paid to the employee may also transfer. Employees transferring to other government agencies shall also have accrued leave transferred. Upon termination of employment, employees will be paid for unused annual leave that has been earned through the last day of work.

Through error, an employee may accrue more leave than is due. When the error is detected (regardless of where or how the error was made), any excess leave shall be removed from the employee's balances. If an existing leave balance is insufficient to reduce the entire number of hours owed, the balance shall be reduced in amounts over a period of time to be determined by Human Resources and the administrative authority in consultation with the affected employee.

- 4.3 Vacation Requests.** Employees requesting leave to go on vacation may utilize accrued annual leave or earned compensatory time by submitting the request via a leave slip to his or her supervisor indicating the period during which the leave is desired. The request must be submitted as far in advance as possible to avoid any interruption or interference with the operations of the Judicial Branch. A minimum of thirty (30) days advance submission of leave requests to the supervisor is desired. As a general rule, vacation requests will be granted on a "first-come" basis.

To the extent practicable, vacation requests must be submitted by January 31st of each year to the employee's immediate supervisor and the administrative authority. Such leave requests shall be date and time stamped by the employee's immediate supervisor. Employees must include a first and second choice of dates for taking vacation. In the event a first choice date conflicts with another employee who, based on the filing date, has first priority, then the other employee will be

granted leave based on his or her second choice request. However, this procedure does not preclude supervisors and employees from working together to resolve conflicts in a manner that takes into consideration special circumstances and the needs of the employees. In the event of an irreconcilable conflict, the final decision shall be made by the supervisor. It is the supervisor's responsibility to resolve the conflict in the best interest of the Judicial Branch, considering the needs of the unit and the employees, in the most objective manner possible. In the event the leave request of an employee conflicts with that requested by his or her immediate supervisor, the administrative authority shall make the final determination. However, as leaders of their unit, supervisors are encouraged to put the needs of their staff before their own.

Once the leave has been approved, a vacation schedule shall be compiled by the supervisors, submitted to the administrative authority and a copy posted in each Division. All approved leave requests must be submitted to the Accounting Division by the administrative authority for the respective Divisions. It is understood that urgency affecting the Judicial Branch takes priority over the granting of leave for vacation, and that the granting of leave is, under such extraordinary circumstances, subject to the discretion of the administrative authority.

Employees are encouraged to use earned Compensatory Time when taking leave in order to ensure that balances stay below maximum allowable limits.

- 4.4 Sick Leave.** Sick leave is paid leave of absence from duty due to illness, injury, or disability which incapacitates the employee for work. It includes medical, dental, and optical treatment. Sick leave may also be authorized upon presentation of proof of serious illness of the employee's parent, spouse, or child. Sick leave may be authorized prior to use when a medical procedure is scheduled for a future date.

Employees shall earn sick leave at the rate of 4 hours for each full bi-weekly pay period. However, it must be earned before it is taken and although accrued, sick leave is not available until the first day of the following pay period. Sick leave which is not used by an employee accumulates for use in succeeding years. Unused sick leave will not be paid to employees upon termination of employment. An employee who has accrued sick leave shall retain all rights to such sick leave upon separation from the Judicial Branch for a period of six (6) months in accordance with 3 V.I.C. § 583 (e). If reinstated to the Judicial Branch within six (6) months, the sick leave accumulated before separation will be reinstated to the employee. Employees who are dismissed without prejudice and re-employed within two years after dismissal shall retain all accrued sick leave 3 V.I.C. §532.

Proof of sickness, regardless of the length of absence, may be required for any absence from duty for which sick leave is requested. The use of sick leave for three or more consecutive days or on the day before or the day after a weekend, holiday, or administrative leave day requires a certificate from a licensed physician certifying that the employee was incapacitated and unable to work. Employees who fail to provide such certificate upon his or her return to work, or who have established patterns of sick leave abuse, may be charged leave without pay and may be subject to disciplinary action.

Whenever an employee is unable to report to work due to an unexpected illness or injury, he or she must notify his or her supervisor as soon as possible on or about the day of the unexpected

illness or injury and on each succeeding day of absence. Upon the employee's return to work, he or she must immediately complete a leave slip which shall be approved by his or her supervisor and administrative authority and submitted to the Accounting Division. Proof of sickness or injury may also be required accordingly.

4.5 Parental Leave.

- a. An expectant mother may use any available leave which shall commence at such time as advised by her physician. Sick leave may be used pre-delivery for pre-natal care and checkups and for recovery after delivery. Sick leave for recovery after delivery may only be used for the period of time certified by the physician as needed for recovery. Any additional time requested may be charged as annual or leave without pay at the discretion of the employee's supervisor and the administrative authority.
- b. Employees who are expectant parents may use up to four consecutive weeks of sick leave, if available, to participate in the delivery of a child and to assist thereafter. This leave must be scheduled at least thirty (30) days prior to the anticipated delivery date, or such leave may be at the discretion of the administrative authority. Any additional time requested by the expectant father may be charged as annual or leave without pay at the discretion of the employee's supervisor or the administrative authority. All such requests for leave must be verified by medical certification from the expectant mother's physician. An expectant mother or father may also be eligible for leave under the Family and Medical Leave Act.
- c. Lactation Accommodation. As part of the Judicial Branch's family friendly policies and benefits, the Judicial Branch supports breastfeeding mothers by accommodating the mother who wishes to express breast milk during her workday when separated from her newborn child. For up to one year after the child's birth, an employee who is breastfeeding her child will be provided reasonable break times to express breast milk for her baby. The Judicial Branch will designate rooms for this purpose as well as persons to contact to reserve the rooms. A refrigerator is available for the storage of breast milk. Any breast milk stored in the refrigerator must be labeled with the name of the employee and the date of expressing breast milk. Any nonconforming products stored in the refrigerator may be disposed of. Breaks of more than 20 minutes in length can be charged to annual or compensatory leave. The employee should indicate this break period to their respective supervisor.

4.6 Family and Medical Leave Act. The Family and Medical Leave Act (FMLA) provides eligible employees with up to 12 weeks of unpaid leave during any 12-month period for the birth and care of the newborn child of an employee; for placement with the employee of a child for adoption or foster care; to care for an immediate family member (spouse, child, or parent) with a serious health condition; for certain military connected occurrences or to take medical leave when the employee is unable to work because of a serious health condition.

- a. Eligible Employee. To be eligible for job protection under FMLA, the employee must have been employed at least 12 month before the leave and must have worked at least 1,250 hours during that time.
- b. Definitions.
 - i. Spouse. Husband or wife as defined or recognized under U.S. Virgin Islands law.

- ii. Child. A biological, adopted, foster, or step son or daughter, a legal ward or a child of a person standing in place of a parent, who is under the age of 18, or if 18 years or older, is incapable of self-care due to a mental or physical disability.
- iii. Parent. The biological or adoptive parent of an employee or an individual who stood in the place of a parent for a child. This term does not include parents “in-law.”
- iv. Serious Health Condition. Any period of incapacity of 3 days or more that involves an illness, impairment or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility, or requires continuing treatment by a health care provider. Includes any period of incapacity due to pregnancy, prenatal care, or the birth of a child. Voluntary or cosmetic treatments which are not medically necessary are not considered serious health conditions.
- v. Health Care Provider. A licensed doctor of medicine or osteopathy or any other person determined by the U.S. Secretary of Labor to be capable of providing health care services.
- vi. Covered Service Member. A current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for serious injury or illness or a veteran of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service Member.
- c. Intermittent Leave. In limited circumstances, which do not include the birth or placement of a child, an employee who is eligible for FMLA may be permitted to work a reduced schedule of hours per workweek or per work day, or may be permitted to take leave in separate blocks of time rather than in one continuous block of time.
- d. Unpaid or Paid Leave. FMLA only requires that an employee be granted unpaid leave. However, an employee may be eligible to use sick or annual leave, concurrently, for all or any part of the 12 week leave granted under the Act.
- e. Notice Requirement. Thirty (30) days advanced notice of intent to take leave is required for foreseeable events such as the birth or placement of a child or planned medical treatment. A reasonable effort must be made to schedule planned medical treatment so as not to unduly disrupt the operation of the Judicial Branch. For unforeseen events, the employee must give as much notice as is practicable. The administrative authority will designate leave, paid or unpaid, as qualifying under the FMLA.
- f. Certification. Leave under the FMLA will require certification issued by a health care provider, and should include the date the condition began or the date on which treatment is expected, its probable duration, appropriate medical facts and a statement that you cannot perform your job or that you are needed to care for a sick family member.
- g. Second Opinions. If details surrounding medical certification are unclear, or if no certification is received within 15 days of the treatment or medical absence, the Judicial Branch may request a second opinion at the Judicial Branch’s expense.
- h. Benefits during FMLA Leave. All accrued benefits will be retained by the employee while on FMLA leave. If leave is unpaid, employees must make arrangements to pay for their share of insurance premiums or other applicable deductions.

- i. Periodic Reporting. Employees on leave may be required to periodically report on their status and intention to return to work.
- j. Returning to Work.
 - i. Before allowing an employee to return to work when leave was based on the employee's own serious health condition, or following any hospitalization, a certification from the employee's health care provider stating that the employee is able to resume work will be required.
 - ii. An employee returning from FMLA leave will be reinstated to the same or an equivalent position.
 - iii. Once a health care provider has certified that an employee is physically able to return to work, the administrative authority may require that the employee return to work by a specific date. Failure to do so may be cause for disciplinary action, up to and including termination for abandonment of job.

FMLA may also be taken in connection with the deployment of an eligible family member who is a covered service member or part of the National Guard or the Reserve. While many of the basic qualifying requirements are the same, special rules apply for military-connected leave. For example, an employee may be entitled to receive up to twenty-six (26) weeks to care for a family member who was wounded or injured during active duty, but this leave is available on a one-time basis. Also, special rules apply to the use of FMLA exigency leave connected to the deployment of a family member. Employees are, therefore, encouraged to contact the Department of Labor or Human Resources.

4.7 Donated Leave Program. Any employee of the Judicial Branch of the Virgin Islands shall be eligible to participate in the Donated Leave Program in accordance with 3 V.I.C. §583b, as amended, provided the employee has completed at least one (1) year of continuous service; the employee is suffering from a health condition including maternity or injury, or when the employee is the primary care giver of a seriously ill spouse, child, parent or any individual who is the legal dependent of the employee, which is expected to require a prolonged absence from work by the employee; and the employee has exhausted all accrued sick, annual, and administrative leave and compensatory time. All donated annual leave shall be calculated on the basis of the donor's or recipient's salary, whichever is less.

Pursuant to 3 V.I.C. §583b, an employee must request, in writing, that the Director of the Division of Personnel approve participation in the program as a leave recipient or as a leave donor. An employee's supervisor may make a request in writing on behalf of the employee for participation in the program as a leave recipient. The employee or supervisor requesting the employee's acceptance as a leave recipient shall submit to the Director of Personnel medical verification from a physician or other licensed health care provider concerning the nature and anticipated duration of the disability resulting from the health condition or injury. If accepted for the donated leave program, the Administrator of Courts or designee shall, with the employee's consent, make known the employee's need for donated leave and shall provide notice to the Division of Personnel of any employees donating leave.

A leave recipient must receive at least five (5) days of sick or annual leave, or a combination thereof from one (1) or more leave donors to participate in the donated leave program. A leave donor may only donate full days of sick or annual days to any one (1) recipient. A leave donor

must have at least twenty (20) days of accrued sick leave and twelve (12) days of annual leave remaining after donating leave. While using donated leave, the leave recipient will continue to accrue sick leave and annual leave which will be available upon return to work. Donated leave may not be retroactively applied to a leave recipient's absence. Any unused donated leave shall be returned to the leave donor or donors on a prorated basis upon the leave recipient's return to work, except that if the proration of leave days results in less than one (1) day per donor to be returned, the leave time shall not be returned. Upon retirement, the leave recipient shall not be granted supplemental compensation for any unused sick days which they had received through the leave donation program.

Employees may voluntarily donate sick and annual leave to the "Donated Sick Leave Bank" administered by the Division of Personnel and withdraw from the bank. However, a leave donor may not donate sick leave in excess of an amount that would leave the donor with less than 12 days of accrued sick leave. A leave donor may not donate more than a total of one-half of the amount of annual leave which the leave donor would be entitled to accrue during the leave year in which the donation is made; however in special circumstances this limitation may be waived pursuant to 3 VIC §583c.

- 4.8 Training Leave.** A tenured employee may be granted training leave for courses, seminars and other training programs that are part of a licensing, continuing education, or certification program related to the employee's current job duties or foreseeable future positions, or that will provide the employee with enhanced skills that are needed by the Judicial Branch. Said course of study is required to be from an acceptable or otherwise accredited educational institution. Subject to the availability of funds, and upon the recommendations of the relevant supervisor and administrative authority, the Administrator of Courts may grant training leave with full pay.

4.9 Study Leave.

Study leave is required when an employee wishes to pursue a degree in a program related to the employee's current job duties or foreseeable future positions, or that will provide the employee with enhanced skills that are needed by the Judicial Branch, in accordance with the list of courses approved by Human Resources. The program must be offered by an accredited college, university, or other institution of higher learning which requires a leave of absence from his or her position with the Judicial Branch.

- a. Criteria for Study Leave. Employees seeking study leave with or without pay and reimbursement must have been performing their job duties satisfactorily in the opinion of the supervisor, immediately prior to applying. The employee's completed Request for Leave Form and Application for Study Leave should be submitted to his or her immediate supervisor, then Human Resources. Upon receipt of the request, Human Resources will forward to the Administrator of Courts for final consideration in consultation with the Chief Justice. Requests must be submitted at least six months prior to the enrollment date, but not less than 90 days. The Chief Justice may grant a tenured employee study leave with full pay, half-pay, or without pay. Approval of study leave shall be within the discretion of the Chief Justice, subject to his determination of the impact on the Judicial Branch's operations, the financial burden on the Judicial Branch and the overall impact on the efficiency of the Judicial Branch's operations.
- b. Length of Study Leave. In accordance with 4 V.I.C. §88 and 3 V.I.C. §677(c) and (f), study leave with full pay or half pay shall not exceed one (1) year. Study leave shall be granted to

one employee each year. Study leave without pay may also be granted in excess of one (1) year, at the discretion of the Chief Justice.

- c. Requirements While on Study Leave. Employees on study leave may be granted reimbursement for tuition, and books. Employees must successfully complete each course undertaken and submit proof of completion and a passing grade. Employees granted study leave must produce proof of enrollment or of continued enrollment via official transcript or other official documentation on a quarterly basis. Employees on study leave will be required to adhere to the terms of the contractual agreement.
- d. Contractual Agreement. Any study leave granted will require a contract to be signed by the employee setting forth the terms of the leave, including, but not limited to, the length of the leave, the terms of the employee's pay and/or tuition reimbursement, requirements for returning to work and penalties for failure to complete studies or return to work. Employees seeking study leave with pay and reimbursement, for on-island or off-island study, must agree to continue in the employ of the Judicial Branch after completion of study leave for a period of time equivalent to that of the leave. Failure to do so shall require reimbursement of monies paid to the employee for the cost of tuition, fees, books, travel, and salary. The employee must sign the contract prior to the commencement of his or her study leave.

4.10 Military Leave. An employee who is drafted or called into active service in the armed service of the United States shall be granted military leave. Upon discharge from such service, the employee shall be re-employed with such seniority, status and pay as would have been attained if employment had continued with the Judicial Branch without interruption, provided that the employee's absence has not voluntarily exceeded five (5) years and application for re-employment is made within ninety (90) days of release from active military service. An employee called to federal active duty, territorial active military service, or training duty as a Reserve of the Armed Forces or a member of the National Guard must give advance written or verbal notice of such service to his/her supervisor. The employee must provide to the administrative authority reasonable advanced notice of the need for military leave, unless notice is impossible, unreasonable or precluded by military necessity, and provide a copy of the official, written military orders in order to establish eligibility for protection under USERRA.

Such employee may not be required to use vacation, annual, or similar leave during such period of service but shall, upon presentation of orders, be granted leave with pay up to 30 days (240 hours) per calendar year, in accordance with 23 V.I.C. §1524 during such period. Employees who are veterans of the Armed Forces may be excused from regular duty for up to four (4) hours with pay to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces.

After military leave with pay has been exhausted, military leave without pay shall be granted for the entire period of service plus any period of additional service imposed by law up to a total maximum of five years. Such leave is not a break in service. At the request of the employee, vacation paid time off shall be used before the employee is placed on active military leave without pay, regardless of the employee's length of service. An employee may continue benefits coverage or cancel benefits coverage while on leave without pay and upon reinstatement shall be entitled to reinstatement of benefits coverage as well. Reinstated employees shall have no adjustments in computing length of service dates or seniority as a result of military leave taken.

Prior to returning to work, an employee on military leave shall submit an application for reinstatement and provide a copy of his or her honorary discharge or other form of military release indicating the military service was satisfactory. An employee who fails to return at the time set forth below shall be deemed to have resigned:

- a. 1 to 30 days: Not later than the beginning of the first regularly scheduled work day following the end of the military duty and the expiration of eight hours, plus reasonable commuting time from the military duty station to home.
- b. 31 to 180 days: Application for reinstatement must be submitted not later than 14 days after completion of military duty.
- c. 181 or more days: Application for reinstatement must be submitted not later than 90 days after completion of military duty.

An employee who is discharged from military service under honorable conditions shall be reinstated immediately and shall be entitled to the following:

- a. 1 to 90 days: Exact job
- b. 91 or more days: Exact job or a position of like seniority, status and pay

4.11 Bereavement Leave. Upon the death of an immediate family member but not later than one month after the passing, the employee will be granted five (5) days of administrative leave with pay. Immediate family members are defined as parents, spouse, siblings, children, grandparents, grandchildren, legal guardian, mother-in-law, and father-in-law. In the discretion of the Administrator of Courts one (1) day of administrative leave with pay will be granted to the employee to attend funeral services for the deaths of family members other than immediate family members. An employee may also request annual leave or compensatory time if additional days are needed. In all circumstances, a leave slip must be submitted requesting the leave, which must then be approved pursuant to the regular approval process.

4.12 Jury or Witness Duty. Employees who must report to jury duty or who receive a subpoena to serve as a witness shall receive administrative leave with pay for time spent on jury duty or to serve as a witness. Verification of a summons to appear or of service on a jury must be provided to the employee's supervisor when received. Employees are required to report to work following the completion of service, providing there are at least two hours of work time remaining. Should the employee choose not to return to work for any remaining time, the employee may request to use annual or compensatory leave at the discretion of the supervisor and administrative authority. The employee who takes jury or witness leave shall remit to the Judicial Branch any and all compensation for such service except for any travel reimbursement.

Any time spent testifying as an expert witness is subject to approval by the administrative authority as outside employment and be reviewed for conflict of interest protection for both the employee and the Judicial Branch. An employee shall request time off in writing and obtain written authorization in advance where practicable.

4.13 Administrative Leave for Judicial Branch Closure. Employees absent due to an authorized closing of a Judicial Branch location due to inclement weather or other emergency reasons, will be paid using administrative leave for such absence. This leave may only be granted for employees who are physically present on the job or scheduled to be present at the time of closure, and shall

not apply to those who are either not scheduled to work or are on leave at the time of the closure. Time paid as administrative leave shall not be considered as time worked for overtime compensation purposes except for “essential personnel”. Employees on a non-pay leave status will not receive any leave or pay under this policy.

Employees identified by their supervisor as being required to work during authorized closings shall be referred to as “essential personnel” designated as essential due to the nature of the services they provide. Such personnel are made aware of this designation at the time of hiring or reassignment to a position that is considered essential during a weather closing. For essential personnel required to work, the hours worked will be computed as compensatory time earned in addition to regular pay. Compensatory time will be calculated at time-and-one-half or double time where holiday hours are worked. Employees who are not designated as essential personnel are not expected to report to work during a closing, cancellation or delayed opening. Non-essential personnel who choose to report to work prior to the time of delayed opening or when the Judicial Branch is closed are not entitled to inclement weather pay.

When an employee is unable to report to work at the expected time, the employee must notify his or her supervisor, explain the reason for the absence, and provide an estimated time of arrival at work. When an employee misses additional work time beyond the time announced for the closing, cancellation or delayed opening, or concludes that he or she must leave work early even when no cancellation has been announced, the employee shall:

- a) make up the time missed in the same work week with supervisory approval; or
- b) take leave for the missed time; or
- c) take leave without pay for the missed time if other leave time is not available; or
- d) if applicable based on work assignment, telecommute (remotely work from home) with authorization by the appropriate supervisor.

4.14 Administrative Leave in General. It is within the discretion of the Administrator of Courts, subject to the authority of the Chief Justice, to grant administrative leave to employees for various reasons so long as such leave does not negatively affect the operations of the Judicial Branch and the employee obtains an approved leave slip.

4.15 Birthday Leave. An employee may take the day off for his or her birthday and be granted administrative leave with pay when his or her birthday falls on a regular work day. The employee must submit a leave slip to his or her supervisor in advance declaring his or her intent to take the day off. Should operational needs warrant the employee’s attendance on his or her birthday, another day of administrative leave with pay may be taken within the work week, or as soon as is practicable.

4.16 Leave Without Pay. The Chief Justice or his or her designee may grant an employee leave without pay for justifiable personal reasons if the employee has exhausted all of his or her annual leave, compensatory leave, and sick leave (in the case of illness or injury). It is within the discretion of the Chief Justice, or his or her designee after reviewing all the facts and considering the impact such leave will have on the operations of the Judicial Branch, to determine the length of time an employee will be granted leave without pay, not to exceed one (1) year. Employees on leave without pay shall not earn sick, annual, or compensatory leave if he or she does not work.

- 4.17 Parents-Students School Participation Leave.** Full time employees who are parents and legal guardians of students enrolled in grades kindergarten through 12 grade are eligible for a maximum of two (2) hours of administrative leave per month. A leave request and documented proof of the child's or children's enrollment, participation for the time, and proof of legal guardianship is required for payroll purposes.
- 4.18 Victim Protection Leave** – Victim protection unpaid leave shall be granted for up to 24 work hours (prorated for part-time employees) per calendar year for victims of stalking, sexual assault, domestic abuse or any other crime when the underlying factual basis of which has been found by a court of record to include an act of violence. An employee must have one year of continuous judicial service to be eligible and shall substitute paid time off to cover the absence if available. Victim Protection Leave is available for the following purposes: to seek a civil protective order; to obtain medical or mental health treatment for the employee and/or the employee's children; to secure safe housing; or to obtain legal assistance. All information related to a request for such leave shall be held as confidential and maintained in a separate file other than the employee's personnel file with limited access.
- 4.19 Furlough Leave.** Furlough leave is a form of unpaid leave during which benefits and service credit may or may not be earned and accrued. Any leave hours earned will accrue and be prorated based on hours worked.
- a. Mandatory Furlough Leave – At the Chief Justice or designee's discretion, mandatory furloughs may be imposed at any time.
 - b. Voluntary Furlough – When the need arises due to budget constraints as determined by the Chief Justice or designee, an employee may request voluntary furlough with the approval of the administrative authority and the Chief Justice, or designee.
 - c. Conditions and Limitations-
 - i. Furlough leave may be taken prior to any other leave being taken.
 - ii. An employee's position shall not be filled by any means for such time that an employee is on furlough leave.
 - iii. Requests for furlough will only be considered when authorized by the administrative authority because of budget constraints. An employee on furlough may earn vacation time and sick leave and continue to receive service credit.
 - iv. Leave Benefits – No adjustment in computing length of judicial service dates, seniority, or earning of leave accrual rates shall be made as a result of any such leave taken. These service benefits shall not be adversely affected except that retirement service credit and final average salary shall be determined in accordance with retirement rules and regulations. During periods of a completely unpaid furlough, eligibility for health and voluntary life insurance benefits may also be affected.
- 4.20 Sabbatical Leave.** The Chief Justice, or designee, may at times enact a policy related to sabbatical leave as a form of unpaid leave.

SECTION 5: PERSONAL CONDUCT

5.1 Request for Release of Information.

- a. Requests for Comment on Pending Actions. No employee, or any other person employed by the Judicial Branch shall comment publicly or express personal opinions about a case or matter before any court of the Virgin Islands to any person who is not an employee of the Judicial Branch, except in the performance of official duties.
- b. Request for Public Commentary. All requests for public comments must be directed to the Administrator of Courts.
- c. Request for Release of Information. Any request by external entities for release of information must be forwarded to the divisional supervisor to determine the appropriateness for release. Information that may be deemed sensitive, confidential, or may adversely impact the Judicial Branch must be directed to the Administrator of Courts.

5.2 Outside Employment. An employee may work outside the Court unless those activities interfere or conflict with the performance of his or her job duties or create a conflict of interest. Employees must obtain approval for outside employment from the administrative authority if they are full-time Judicial employees using the appropriate forms. Employees shall not become engaged in outside employment or volunteer activities without approval from the administrative authority.

- a. Principal Vocation of Employees – Judicial employment shall be the principal vocation of employees.
- b. Conditions of Outside Employment/ Volunteer Activities – An employee may engage in outside employment and volunteer activities if the following conditions are met:
 - i. The outside employment/volunteer activity does not interfere with job performance;
 - ii. The outside employment/volunteer activity does not conflict with the interest of the Judicial Branch of the Virgin Islands;
 - iii. The outside employment/volunteer activity is not the type which could reasonably give rise to criticism or suspicion of conflicting interest or duties; and
 - iv. The employee has obtained prior written approval from the administrative authority. Each outside employment/volunteer activity request shall be submitted on a separate form.
 - v. If the employee is requesting employment with another Virgin Islands government agency, prior approval is required.
 - vi. If any terms or conditions of the outside employment/volunteer activity change, the employee must re-submit the request for outside employment/volunteer activity and receive proper approval.
 - vii. Human Resources shall be informed of all approvals prior to work commencing.

5.3 Computers and Internet Use. Employees are required to comply with all aspects of the Acceptable Use Policy as issued by the Judicial Branch of the Virgin Islands.

5.4 Phones in the Judicial Branch

- a. Office Telephones. Telephones in the offices must primarily be used to conduct the business of the Judicial Branch. However, reasonable use of office telephones for personal local calls is authorized. In some cases, personal long distance calls will be allowed as long as the

employee obtains the permission of his or her supervisor to make such long distance calls and provides documentation including the employee's name, date and time of call, number called, and the length of such call. The employee will be required to reimburse the Judicial Branch for such calls upon receipt of the bill. Failure to do so shall result in disciplinary action. Employees may not accept collect calls unless authorized by their immediate supervisor.

- b. Mobile Devices. Cellular or other mobile devices may be issued to employees whose duties require them to be mobile, readily accessible or who must be available for emergency response after normal business hours. The primary use of these devices is for the official business of the Judicial Branch. Employees may, however, use these devices for personal use, as long as, the total number of minutes and data included at no additional cost in the plan, are not exceeded and the use does not interfere with the employee's job performance. These devices must be returned to the Judicial Branch upon termination of employment.

Use of personal devices during working hours must be restricted to break periods or emergencies.

- 5.5 **Dress Code and Uniform Policy.** All employees shall wear uniforms provided by the Judicial Branch at no expense to the employee during regular work hours, except on Fridays and other designated days. Employees who must work during holidays or administrative leave days and who are required to perform their duties inside the courtroom are not required to wear their uniforms, but must dress in appropriate, professional office attire.

Tenured employees shall receive two complete uniform sets, subject to the availability of funds. Following the initial satisfactory probationary evaluation, a new employee shall receive two complete uniform sets. Employees may purchase additional uniforms at their own expense. Judicial officers and their staff, the Chief Disciplinary Counsel, the General Counsel, the Assistant General Counsel, and other positions designated by the Administrator of Courts are not required to adhere to the uniform policy but must dress professionally during work hours.

In the event a uniform is not provided, duty attire should be worn, at a minimum, when conducting official business, attending training, or attending Judicial Branch sponsored activities other than business meetings or Judicial Branch sessions. Examples of suitable duty attire include the following:

- a. Dress slacks/trousers or skirts/dresses (no military style trousers)
- b. Button up style shirt, with or without tie
- c. Banded collar shirts
- d. Blouse
- e. Collared polo, with Judicial Branch insignia
- f. Dress shoes, dress sandals or flats

When attending court sessions, representing the Judicial Branch at public gatherings, or at meetings with individuals outside of the Judicial Branch, examples of suitable business/court attire include the following:

- a. Traditional Suit, with skirt or slacks
- b. Dress Slacks with Jacket
- c. Dress, with or without jacket or sweater (sleeveless dresses must be worn with a jacket or cardigan sweater)

- d. Skirt or dress slacks with a blouse, sweater, and/ or jacket
- e. Long or short sleeve dress shirt with collar and tie, and
- f. Dress shoes, dress sandals, flats

Employees shall be conservatively attired at all times during working hours. All outer garments shall fit properly. Clothing shall be of appropriate size and properly laundered to present a neat and clean appearance. Clothing shall cover tattoos, if possible. Sexually suggestive, generally offensive, or extreme fashions shall not be worn or displayed.

All employees should maintain a clean and groomed appearance. Hair will be clean, combed, and neatly trimmed or styled. Hairstyles should be appropriate to the work setting and should not interfere with the work to be performed, create a safety hazard or cause other distractions. Hairstyles, hair color, beards, moustaches, sideburns, and other appearance related items should present a neat and professional image as determined in accordance with this dress code policy and enforced by the employee's supervisor.

Body piercings and gauges (with the exception of earrings worn in the ear) must not be visible and must be removed while working. Employees shall make every effort to ensure that tattoos are not visible. Cologne, perfume and aftershave should be subtle, taking into consideration any sensitivity by other employees.

Footwear should be functional, clean, in good repair, and secure so it does not present a safety hazard. Slippers, sneakers, flip-flops, or similar footwear are inappropriate during office hours. Employees must be cognizant of the fact that they represent the Judicial Branch and should, therefore, dress and act professionally and appropriately.

Fridays have been designated as Casual Friday. This designation is a privilege that is offered to provide a more comfortable and relaxed work atmosphere. Casual Friday may be revoked on an individual, office or on a Judicial Branch-wide basis if the guidelines set forth are not adhered to. Employee participation will be voluntary and secondary to the execution of the Judicial Branch mission and responsibilities. Employees who are scheduled to attend or participate in court sessions, meetings outside the Judicial Branch, meetings with other territorial entities or private entities, or other professional activities on Casual Friday must dress in otherwise appropriate Judicial Branch/business attire.

The goal of Casual Friday is to provide a more relaxed environment as reflected in dress attire; however, good taste and judgment must be exercised at all times. Examples of acceptable casual day attire include:

- a. Polo style shirts, with or without the Judicial Branch insignia
- b. Button up style shirt, without tie
- c. Casual slacks/pants, excluding shorts
- d. Casual dresses or skirts,
- e. Capri and cropped pants
- f. Dark or colored denim that is NOT distressed, cut off, ripped, paint splattered, skintight, excessively baggy, sequined, bedazzled, faded, frayed, and does not contain cutouts or patchwork



Certain types of clothing will be unacceptable at any time, including as part of casual attire. Examples of prohibited attire include, but are not limited to:

- a. Casual t-shirts, with or without writing (T-shirts without writing are permitted if worn with a suit ensemble and covered by a business jacket)
- b. Halter tops, tank tops, bare midriff tops, or spaghetti-straps tops (tank tops may be worn when covered by a sweater, suit ensemble or a business jacket)
- c. See through fabric, overly revealing/plunging necklines, or visible undergarments
- d. Extremely short skirts or dresses more than three inches above the knee
- e. Skorts (combination of shorts and skirt) and shorts
- f. Athletic apparel or loungewear (eg. Pajamas)
- g. Tennis or athletic shoes, flip-flops, beach type sandals
- h. Revealing skirts, blouses, slacks, or dresses
- i. Tight fitting clothing, including leggings
- j. Extreme loose fitting or baggy clothing

An employee who fails to comply with dress code guidelines may be subject to disciplinary action. The employee will be counseled on the policy violation and, if necessary, sent home to dress appropriately for the workplace. If an employee is sent home due to his/her failure to comply with the dress code the time absent from work may be accounted for as follows:

- a. the employee may be allowed to make up the time lost from work, provided that all time is made up during the same work period that the time was lost; or
- b. the employee, with supervisory approval, may charge the absence to accrued annual leave, or if applicable, compensatory time; or
- c. the employee may be placed on leave without pay if none of these options are available.

Supervisors are responsible for ensuring that employees know, understand and adhere to this policy directive. Supervisors are the final authority on the appropriateness of an employee's attire, in conjunction with these guidelines.

- 5.6 Code of Conduct for Judicial Branch Employees.** A fair and independent Judicial Branch system is essential to the administration of justice. Proper conduct by Judicial Branch employees inspire public confidence and trust in the Judicial Branch. There are certain principles that should govern the conduct of all Judicial Branch employees. This code of conduct provides uniform standards for the conduct of all officers and employees of the Judicial Branch other than Judicial Officers, the Office of Disciplinary Counsel, General Counsel, Assistant General Counsel and Law Clerks or persons who perform services for the Judicial Branch as independent contractors. Judicial Branch employees who are law students, attorneys or members of other professional groups are also bound by the appropriate professional duties of those roles. The minimum standards contained herein do not preclude the adoption of more rigorous standards by law, Judicial Branch order, or local rule. Violations of this code shall be enforced by the Judicial Branch and in the same manner as violations of other sections of the Judicial Branch's personnel policies and procedures.

An employee who witnesses another employee violating the Code of Conduct shall report such conduct to his or her supervisor and the administrative authority. Any supervisor who witnesses any employee violating the code of conduct may immediately address the employee's misconduct with him or her and thereafter provide a written report of the employee's conduct to the employee's supervisor. (See also Canon 3(g) Duty to Report.)

Canon 1 – Judicial Branch employees shall uphold the integrity and independence of the Judicial Branch. Employees shall maintain high standards of conduct so the independence of the Judicial Branch is preserved and shall maintain and observe the highest standards of integrity, honesty, and truthfulness in their professional and personal dealings.

The attitudes and work habits of individual Judicial Branch employees are of vital importance. Honesty is paramount. Employees should set an example for others and must not misuse resources or property of the Judicial Branch. Employees must not abuse their privileges, and must contribute to the integrity of the entire Judicial Branch staff by striving to avoid factionalism and inspire mutual support and trust. Judicial Branch employees shall maintain high standards of conduct so the independence of the judiciary is preserved.

All persons coming to the Judicial Branch for assistance are entitled to fair and equitable treatment, regardless of their personal or legal situation. While every Judicial Branch employee has the right to freedom of association, he or she does not have the right to take sides in any legal dispute, interject him or herself into the legal decision-making process, second-guess a Judicial Officer's ruling, or give the appearance of partiality on any issue that is likely to come before the Judicial Branch. Employees should never influence or attempt to influence the assignment of cases, or perform any discretionary or ministerial function of the Judicial Branch in a manner that improperly favors any litigant, attorney, or imply the authority to do so. The procedural integrity

of the Judicial Branch must be protected at all times. Public confidence in the judiciary is maintained by the willingness of each employee to live up to this standard.

Canon 2 – Judicial Branch employees shall avoid impropriety and the appearance of impropriety in all their activities.

- (a) Compliance with the Law. Proper conduct involves daily and scrupulous affirmation of moral principles and observance of all laws, rules, policies and procedures. Judicial Branch employees shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judicial Branch.
- (b) Gifts and Extra Compensation. Judicial Branch employees shall not solicit or accept gifts, favors, or free service, from attorneys, litigants, or other persons known to do business with the Judicial Branch and shall not request or accept any payment in addition to their regular compensation for assistance given as part of their official duties. (Exception is for court reporters who are authorized to charge an additional fee for preparation of transcripts.)

Gifts include loans, services, food, gratuities, discounts, favors, entertainment, travel and clothing **in excess of \$100.00**. Excluded are meals at conferences or business meetings; educational material relating to job function; gift baskets for special occasions; awards for public service; plaque or certificate as token of appreciation or special appearance; unsolicited advertisement or promotional material; birthday, marriage, illness, retirement or wedding gift exchanges with friends outside the workplace; and acceptance of loans from banks or other financial institutions on similar terms offered to the public for purposes such as a home mortgage. Any gift received by any Judicial Branch employee from one of the above listed persons must be reported to the employee's supervisor within twenty-four (24) hours.

- (c) Abuse of Position. Judicial Branch employees shall not use or attempt to use their positions to secure special privileges, favorable consideration or exemptions for themselves or other persons. Examples: seeking or providing special consideration regarding traffic citations; providing special treatment to a particular party or matter; discussing the merits of cases pending before the Judicial Branch; or giving the appearance of preferential treatment. Prohibited activities include, but are not limited to the following:
 - i. Conducting business with former Judicial Branch employees who held a position involving substantial discretion over that aspect of the Judicial Branch's activities; who left the Judicial Branch's employment during the preceding 12 months; and whose participation could harm the interests of the judiciary or cause a perception of favoritism.
 - ii. Enter into any contract with the Judicial Branch apart from the regular employee's position, or using the position to assist any member of his/her immediate family in securing a contract with the Judicial Branch in a manner not available to any other qualified interested party. For the purposes of this Code, "immediate family" shall include the following, whether related by

marriage, blood, domestic partner, adoption, or residence in the employee's household: spouse; dependent children; brother; sister; parent; grandparent; grandchildren; father-in-law, mother-in-law; sister-in-law, brother-in-law; son-in-law, daughter-in-law; stepfather, stepmother; stepson, stepdaughter; stepbrother, stepsister; half-brother, half-sister.

- iii. Receive compensation from a consultant, contractor or parties engaged in transactions with the Judicial Branch, regardless of whether the duties perform relate to specific work functions at the Judicial Branch.
- (d) Employment of Relatives. Judicial Branch employees shall not be appointed by, or assigned to be directly supervised by, a relative or by a supervisor reporting to a relative. Employees shall not attempt to influence the employment or advancement of a relative with the Judicial Branch except by letters of reference or in response to a person verifying references. Recruitment, selection, and advancement of personnel shall be based on demonstrated knowledge, skills, abilities and bona fide work related factors, not on favoritism.
- (e) Use of Public Property. Judicial Branch resources must be used for the benefit of the public in the dispensing of justice. These resources include facilities, equipment, staff time and the money allocated to the Judicial Branch. Judicial Branch employees shall not use public funds, property, or resources wastefully or for any private purpose or gain not authorized by the Judicial Branch's administrative authorities. Employees should exercise diligent and prudent care in the handling and safekeeping of government-issued property. Loss, damage or theft of government-issued property must be reported immediately to the Administrator of Courts.
- Employees must:
- i. Ensure proper accountability of resources by not falsely claiming reimbursements, knowingly make false entries on time cards or personnel records, backdating Judicial Branch documents, taking supplies home for private use, abusing the telephone, facsimile machine or copying machine for personal purposes.
 - ii. Safeguard and maintain physical resources and equipment to avoid unnecessary damage, wear or replacement.
 - iii. Seek ways to improve job efficiency and work processes to reduce waste.
 - iv. Use good business practice in managing contracts to avoid the waste of resources.
- (f) Special Treatment. Employees must not discuss the merits of cases pending before the Judicial Branch, allow personal relationships to influence official conduct or be inappropriately friendly with litigants, counsel or other persons who do business with the Judicial Branch, thus giving the appearance of preferential treatment. To gauge the propriety of an action, employees should consider how opposing parties, the public and counsel are likely to view the situation. Employees shall inform their supervisor of any situation creating the appearance of undue influence.

Canon 3 - Judicial Branch employees shall perform their duties impartially and diligently.

- (a) Professionalism. Judicial Branch employees shall be professional, diligent, patient, respectful, prompt and courteous to appellants, litigants, jurors, witnesses, lawyers and others who come in contact with the Judicial Branch. A professional behavior is one that:
 - i. Displays knowledge and competence of job duties and can provide complete and understandable responses to questions from the public.
 - ii. Presents a business-like image of appearances and methodical efficiency.
 - iii. Refrains from criticizing a co-worker or demeaning a Judicial Branch user in public.
 - iv. Uses conflict resolution to deal with conflict and preserves the dignity of individuals and the Judicial Branch.
- (b) Use of Offensive Language. Judicial Branch employees are prohibited from using obscene or abusive language in the workplace.
- (c) Impartiality. Judicial Branch employees shall perform their duties impartially, and shall not be influenced by kinship, social or economic status, political interests, public opinion or fear of criticism or reprisal.
- (d) Prejudice. Judicial Branch employees shall perform their duties without bias or prejudice, and shall not manifest by words, actions or conduct bias or prejudice based upon race, color, gender, language, medical condition, marital status, religion, national origin, disability or perceived disability, genetic information, veteran status, age, sexual orientation or socioeconomic status. Equal access is the cornerstone of the administration of justice. Accordingly, Judicial Branch employees are expected to treat each other and the public equally and with compassion. There is an implicit duty to discourage discrimination wherever it exists.
- (e) Information and Records. Judicial Branch employees, when authorized, shall furnish accurate, timely information and shall provide access to public court proceedings and records according to established procedures (see 5.1). A Judicial Branch employee shall not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage. Employees shall not intentionally destroy work-related documents or records. This includes altering, concealment, removal, falsifying, mutilating, and backdating of records. This provision does not prohibit alteration or expungement of records or documents pursuant to court order.
- (f) Legal Assistance. Judicial Branch employees may assist attorneys, litigants, and the general public in understanding and complying with court procedures and how to file forms and pay fines. Judicial Branch employees must not, however, cross the line separating a Judicial Branch employee from a licensed legal practitioner by giving their opinion on the law or advising a particular course of action. In performing their official duties, employees should not recommend the names of private attorneys, but may refer members of the public to bar associations or legal aid organizations.

- (g) Communication with Judicial Officers. Judicial Branch employees shall not communicate personal knowledge about the facts of a pending case to the judicial officer assigned to the case and shall not make or repeat remarks about a case pending before the Judicial Branch that might affect the fairness or outcome of the proceeding.
- (h) Duty to Report. Judicial Branch employees shall report to a supervisor, administrative authority, or judicial officer any violation of the law or of this Code of Conduct by another Judicial Branch employee including any attempts by anyone to induce them to violate provisions of this code. Employees shall not be subject to retaliation for reporting violations if such report is made in good faith. This duty to report does not prohibit reporting illegal conduct to a law enforcement agency or other appropriate authority.
- (i) Education. Judicial Branch employees shall comply with judicial education requirements and maintain any licensing or certification required for their positions. Judicial Branch employees are encouraged to participate in professional development activities and associations in order to keep abreast of changes and improve personal and professional skills.

Canon 4 - Judicial Branch employees shall so conduct their outside activities as to minimize conflicts with their employment responsibilities.

- (a) General Activities. Judicial Branch employees shall conduct their outside activities so as to avoid a negative effect on the Judicial Branch or their ability to perform their duties.
- (b) Financial Activities. Judicial Branch employees shall keep informed about their personal and fiduciary financial interests and make reasonable efforts to keep informed about the personal and financial interests of a spouse or minor child residing in the judicial employee's household. Employees engaged in the procurement of goods, services or the finances of the Judicial Branch, upon request, may be required to complete and file a personal statement of financial disclosure on a form to be provided for this purpose.

Judicial Branch employees shall not engage in any business activity or secondary employment that:

- i. involves an organization or a private employer that regularly conducts business with the Judicial Branch;
- ii. is conducted during the employee's normal working hours;
- iii. places the employee in a position of conflict with his or her official role in the Judicial Branch;
- iv. requires the employee to appear regularly in judicial or administrative agency proceedings;
- v. identifies the employee with the Judicial Branch or gives the impression the employment or activity is on behalf of the Judicial Branch; or

- vi. requires use of the Judicial Branch's equipment, materials, supplies, telephone services, office space, computer time, or facilities.
- (c) Conflict of Interest. Judicial Branch employees shall manage personal and business matters so as to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of their employment.
- i. Judicial Branch employees shall inform his or her supervisor of any potential conflict of interest involving their duties.
 - ii. Employees must inform the administrative authority and the judicial officer assigned to the case when the case involves a family member, relative, or friend or if the employee has a personal interest in the case or if it is known that the person is a family member.
 - iii. The following individuals shall not be permitted to post bail or act as surety in any action before the Judicial Branch: Judicial officers; Judicial officers' law clerks, and secretaries, all directors, managers and supervisors, Cashiers; Clerks; Administrative Officers; Court Reporters; Probation Officers; Marshals; and Court Security Officers.
 - iv. A member of a judicial officer's personal staff and the Judicial courtroom clerk shall inform the judicial officer of any potential conflict of interest, involvement or activity of the staff member or Judicial courtroom clerk in a case pending before the judicial officer that might serve as a basis for disqualification.
 - v. Judicial Branch employees shall withdraw from participation in a court proceeding or court business in which they have a personal, business, or family interest that may actually or appear to influence the outcome of the court proceeding or business.

Canon 5 – Judicial Branch employees shall refrain from inappropriate political activities.

- (a) General Activities. In general, Judicial Branch employees may participate in any political activities that do not give the impression the judiciary itself endorses political candidates or supports political causes.
- (b) Elective Office. Judicial Branch employees may not hold elective office while employed with the Judicial Branch. If an employee decides to seek elective office, he or she must take a leave of absence from his or her employment with the Judicial Branch in accordance with 18 V.I.C. §2. If elected, the employee must resign from the Judicial Branch's employment prior to assuming office.
- (c) Workplace Activity. During scheduled work hours or at the workplace, Judicial Branch employees shall not engage in political campaign activities and shall not display literature, badges, stickers, signs, or other political advertisements on behalf of any party, political committee, agency, or candidate for political office. Judicial Branch employees shall not use the Judicial Branch's vehicles, supplies, equipment, etc. in connection with any political activity.

- (d) Political Pressure. Judicial Branch employees shall not use their official authority or position, directly or indirectly, to influence or attempt to influence any other Judicial Branch employee to become a member of any political organization or to take part in any political activity.

SECTION 6: SAFETY AND SECURITY

- 6.1 **Emergency Preparedness.** Each employee shall receive the Judicial Branch's Emergency and Disaster Procedures upon employment. Employees should review and familiarize themselves with the handbook which outlines procedures in the event of a disaster including the safety of employees, employee responsibilities, and the security and preservation of the Judicial Branch's property.
- 6.2 **On-the-Job Injury.** Employees who sustain work-related injuries or illnesses should inform their supervisor and Human Resources immediately (within sixty (60) minutes of the injury) no matter how minor an on-the-job injury may appear. Supervisors in turn should report job-related injuries or illnesses to the administrative authority immediately upon learning of the injury and shall follow up to ensure that Human Resources was advised. Employees may be entitled to Worker's Compensation benefits for job-related injuries or illnesses. If any claim for compensation pursuant to a workplace injury shall be filed, it must be filed in writing within 48 hours of the injury on forms furnished by the Commissioner of the Department of Labor. (See Section 10.2 Workers' Compensation.)
- 6.3 **Weapons in the Judicial Branch.** Except as authorized by statute, no employee of the Judicial Branch may bring firearms or other deadly weapons, concealed or not concealed, into any part of the Judicial Branch's buildings, physical facilities, Judicial Branch rooms or secured or unsecured areas utilized by the judicial officers, their staff or other employees of the Judicial Branch to conduct their normal and routine functions. This prohibition does not apply to Judicial Officers duly authorized and licensed to carry a firearm.
- 6.4 **Non-Personnel Entering Judicial Branch Facilities.** All persons, other than Judicial Branch personnel, entering the Judicial Branch's facilities must go through the Judicial Branch's security prior to gaining access to any floors or offices of the Judicial Branch. Judicial employees shall not escort non-judicial employees through any entrances without those persons going through a security check by the Judicial Branch's security personnel before entering the Judicial Branch's premises. Employees who fail to abide by this procedure may be subject to disciplinary action.
- 6.5 **Identification Cards.** Within a reasonable time after employment, each employee shall have a picture taken for identification purposes. This picture, together with identifying information about the employee, shall be sealed within and shall constitute the employee's official Judicial Branch identification and shall be used for identification and security whenever necessary. Each employee will be required to sign a statement acknowledging receipt of their identification card and promising to return it upon termination. Failure to return an identification card may result in delay of the employee's final paycheck pending repayment for the identification card. Employees who lose their identification card must immediately report its loss to their immediate supervisor and the Chief Marshal or Assistant Marshal, as appropriate, so that it may be replaced. There shall be no

charge to the employee to replace the first lost/misplaced identification card. Thereafter, the employee shall be responsible for paying the cost of \$20.00 for replacement of any lost or misappropriated identification card.

- 6.6 Keys.** All requests for duplication of Judicial Branch keys shall be submitted to the Administrator of Courts. Supervisors shall ensure that a spare key to each filing cabinet assigned to their division is forwarded to the Administrator of Courts for safekeeping. Duplicate keys shall be secured in the key vault for security and access purposes within both Districts. Employees will be held responsible for all keys issued and must protect keys from loss, theft or unauthorized use. All keys issued remain the property of the Judicial Branch. Unauthorized door locks are prohibited and when found will be removed, appropriate charges may be assessed and disciplinary action may be imposed. All keys must be returned to the immediate supervisor before discontinuing employment or transferring from an employee's present position. Failure to return keys may result in the delay of a promotional increase or the employee's final paycheck. Employees who lose issued keys must immediately report its loss and submit an incident report to the immediate supervisor for final submission to the Administrator of Courts so that it may be replaced. Employees shall be responsible for paying the cost for any lost keys or locks which have to be re-keyed or changed as the result of lost keys, failure to return keys, or other actions taken by the employee.
- 6.7 Law Libraries.** The Judicial Branch's law library is open to employees of the Judicial Branch, judicial officers, lawyers, and the general public during normal work hours. Books, periodicals, or other material may be removed from the library by Judicial Branch personnel only. Employees who borrow books must sign a control roster indicating which books are being removed, the date of their removal, and the signature of the employee. This procedure shall also be followed when books are returned. Non-Judicial Branch personnel must sign in and sign out in the Visitor's Log. The door to the library shall be kept locked when the library is not being used and all books and periodicals shall be properly shelved after their use.
- 6.8 Vehicles.** Employees may be required to use their personal vehicle or a vehicle from the Judicial Branch's fleet to conduct their job duties. Employees who use their personal vehicles to conduct the Judicial Branch's business, when no vehicle is available from the Judicial Branch's fleet, may seek reimbursement for mileage at the current rate upon submission of certified vouchers. Payment for vehicle use to travel from home to any official duty station or from the official duty station to home is not permitted. Any employee knowingly certifying such payments may be subject to disciplinary action. The Judicial Branch fleet is to be used by employees who routinely travel as a part of their job duties. When fleet vehicles are assigned to employees, it shall be their responsibility to operate such vehicles in a safe, reasonable, and lawful manner, and to secure them from abuse and vandalism. Vehicles may be assigned for 24 hour use to those employees whose duties require their availability at unusual hours.
- 6.9 Drug and Alcohol Use.** All employees are required to report to work in appropriate mental and physical condition to perform their jobs in a safe and effective manner. While on the Judicial Branch's premises and while conducting the Judicial Branch's business, no employee may be impaired by alcohol or any illegal substance or possess any quantity of alcohol or illicit drug. All employees shall be subject to random drug tests. Refusal to submit to such testing may result in disciplinary action up to, and including, termination from employment. If the test results reveal the use of an illegal substance, the employee may be referred to Human Resources for participation

in the Employee Assistance Program. Refusal to participate in the Employee Assistance Program or obtain treatment in an appropriate facility may result in disciplinary action up to, and including, termination. Employees whose test results reveal the use of an illegal substance may be placed on probation and subjected to drug testing at regular intervals upon their return to work after completion of treatment. Failure of two drug tests shall result in the immediate termination of the employee. Lawful over-the-counter drugs in reasonable amounts and other prescription drugs which have been prescribed by a physician for use in treating an illness or disease are allowable to the extent that their use does not impair an employee's ability to perform the essential functions of his or her job. Violation of this rule may result in disciplinary action.

Employees who need assistance in overcoming their dependence on alcohol or drugs or with mental health issues may voluntarily file an application with Human Resources requesting treatment or the employee may be referred to Human Resources by his or her supervisor, after consultation with the respective administrative authority. If it is determined that the employee may need medical evaluation, employees needing assistance will be referred to the appropriate facility. All information concerning the employee's participation and treatment shall remain confidential. (See Section 10.4 Employee Assistance Program.)

6.10 Sexual and Other Unlawful Harassment. The Judicial Branch of the Virgin Islands is committed to providing a work environment that is free from all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive, including sexual harassment. Actions, words, printed or electronic material, jokes, or comments based on an individual's sex, race, color, national origin, age, religion, disability, sexual orientation, or any other legally protected characteristic will not be tolerated. Pursuant to 10 V.I.C. § 64a, within one year of employment, all new employees and supervisors will be trained.

Sexual harassment is defined as any unwelcomed sexual advances, requests for sexual favors or any other visual, verbal or physical conduct of a sexual nature when submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual's employment; or submission to or rejection of the conduct or advances or requests by an individual is used as the basis for employment decisions affecting the individual; or the conduct or advances or requests have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. This definition includes harassment of a person of the same sex.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees may report any instances or perceived instances of sexual harassment to any supervisor or judicial officer within the Judicial Branch, and need not follow the chain of command for this purpose. All allegations will be quickly and discretely investigated. To the maximum extent possible, the employee's confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. When the investigation is completed, the employee will be informed of the outcome. Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment must immediately advise the respective administrative authority, so that it can be investigated in a timely and confidential manner.

Employees may file formal complaints with any of the entities below in conjunction with using the Judicial Branch's internal procedures:

U.S. Equal Employment Opportunity Commission
131 M Street, NE
Washington, DC 20507
Phone: 1-202-663-4900 / (TTY) 202-663-4494
www.eeoc.gov

U.S. Equal Employment Opportunity Commission
525 F.D. Roosevelt Ave.
Plaza Las Americas, Suite 1202
San Juan, Puerto Rico 00918-8001
Phone: 1-800-669-4000 Fax: 787-771-1485
TTY: 1-800-669-6820

Virgin Islands Department of Justice
Virgin Islands Civil Rights Commission
Department of Justice
3438 Kronprindsens Gade
GERS Building, 2nd Floor
St. Thomas, Virgin Islands 00802
Telephone: (340) 774-5666 Fax: 340-776-2016

Virgin Islands Department of Labor
Division of Labor Relations
4401 Sion Farm STE1 Christiansted, VI 00820-4245
Tel 340-773-1994 or 340-773-1440
Fax 340-773-0094

Virgin Islands Department of Labor
Division of Labor Relations
2353 Kronprindsens Gade
St. Thomas, VI 00802
Tel 340-776-3700 Fax 340-774-5908

Division of Personnel
3438 Kronprindsens Gade
GERS Building, 2nd Floor
St. Thomas, Virgin Islands 00802
Tel 340-774-8588 Fax 340-714-5040

Division of Personnel
3009 Orange Grove Shopping Center
Bays #6, 7, 8
St. Croix, Virgin Islands 00820
Tel 340-718-8588 Fax 340-718-5669

Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action up to and including termination of employment. Anyone who retaliates against any participant in an investigation under these rules shall also be subject to disciplinary action up to and including termination of employment.

- 6.11 Diversity and Inclusion.** The Judicial Branch does not discriminate in any way on the basis of sex, sexual orientation, gender identity, or gender expression. The Judicial Branch is committed to creating a safe and productive workplace environment for all employees.
- 6.12 Whistleblowers' Protection Act.** An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this territory or the United States to a public body, unless the employee knows that the report is false, or because an employee is requested by a public body to participate in an investigation, hearing or inquiry held by that public body, or a Judicial Branch action.

SECTION 7: CORRECTIVE ACTIONS, DISCIPLINARY ACTIONS AND APPEALS PROCEDURES

- 7.1 Causes for Corrective and Disciplinary Action.** Any corrective or disciplinary action taken as a result of violating this paragraph, may be in addition to any suspension imposed under this or any other section. An employee may not be corrected or disciplined more than once for a single specific act or violation, but may be corrected or disciplined for each additional act or violation of the same or similar nature. No more than two corrective actions shall be imposed on an employee in any consecutive 12 month period. Disciplinary action shall be taken for any further violation or offense during the same period.

Corrective and/ or disciplinary action may be administered for causes which shall include, but not limited to:

- i. Failure to comply with requirements for acceptable job performance.
- ii. Insubordination or refusal to follow the directives of one's supervisor.
- iii. Misconduct, which includes but is not limited to, violation of any judicial branch rule, policy, or procedure.
- iv. Failure or inability to perform duties assigned. For purposes of this rule, inability to perform duties assigned does not include inability as the result of physical or mental disability.
- v. Violation of any Federal, Territorial, or local criminal code when such offense adversely affects the employee's ability or fitness to perform duties assigned or may have an adverse effect on the Judicial Branch if the employee continues employment.
- vi. False statement of any material fact, or any attempted practice of deception or fraud, including such misconduct in the application, interview, examination, or interview process for employment.

- vii. Conviction of any crime involving moral turpitude. Conviction shall include a plea of nolo contendere or acceptance of a deferred sentence.
- viii. Involvement in any activity or conduct which adversely impacts the Judicial Branch or the employee's ability to fairly, impartially or efficiently perform his or her duties, or creates an appearance of impropriety, or otherwise adversely affects the Judicial Branch, its reputation or erodes public confidence in its ability to fairly and impartially administer justice, including but not limited to involvement in criminal, immoral or disreputable activities which may, or may not result in arrest or a conviction but which may be administratively pursued independently by the Judicial Branch.
- viii. Such other conduct unbecoming an employee of the Judicial Branch.

7.2 Corrective Action.

A corrective action is an action taken to counsel, assist, or encourage an employee to change unsatisfactory or unacceptable behavior or performance before punitive or disciplinary action is taken. Types of corrective action include, but are not limited to, written warning, reprimand, censure, or "contemplative" leave with pay of not more than one (1) business day. Corrective actions taken to correct and improve an employee's job performance or conduct do not affect the employee's current pay, status, or tenure. Corrective actions are not appealable or subject to the grievance procedures.

Procedure for Corrective Action.

Upon learning of a problem with the employee's performance or conduct, the employee's supervisor shall request a meeting with the employee to advise the employee of the problem, provide the employee an opportunity to respond or present mitigating evidence, discuss the importance of changing such behavior or improving such performance, and the recommended changes needed. This meeting is not a formal hearing and there shall be no right of representation by counsel for any participant.

Thereafter, the supervisor shall issue a written notice, which shall contain the following information:

1. The area(s) of needed improvement.
2. The remedial step(s) the employee must take to make the improvement(s).
3. The time allotted to the employee to make the improvement(s).
4. The consequences the employee will face for failure to improve.
5. Decision on whether to take further corrective action.

Such notice shall not become a part of the employee's personnel file and shall be retained in the supervisor's file and may be used, in the support of, or defense to any challenge of any future corrective and/or disciplinary action.

7.3 Disciplinary Action

The purpose of these disciplinary policies is to seek improved performance or conduct from employees who violate a personnel rule or policy of the Judicial Branch or any applicable law. The responsibility for administering disciplinary or corrective actions shall be vested in the supervisor after consultation with the administrative authority and Human Resources. Employees listed in Section 7.6 are not subject to the procedures for corrective or disciplinary action set forth in this rule.

A disciplinary action is an action taken to penalize an employee for an offensive act, misconduct, violation of the law or the Judicial Branch's policies and procedures, or poor job performance. A disciplinary action adversely affects the current pay, status, or tenure of the employee, and may include suspension, demotion, pay adjustment to a lower step in the assigned pay grade, dismissal, or any other appropriate action affecting the pay, status, or tenure of the employee. Types of disciplinary action available may include, but are not limited to, written reprimand or censure, suspension without pay, forfeiture of leave, demotions, transfer or reassignment, and dismissal. A disciplinary action may be initiated with a notice which may be captioned variously, or in any other manner which places the employee on notice of intent to seek disciplinary action against him or her.

Disciplinary actions may be administered for causes listed in Section 7.1 and issued concurrently with corrective actions, but may be administered regardless of whether or not any corrective action has been taken prior to disciplinary action. The disciplinary action of dismissal may be issued whether or not a disciplinary action of a lesser nature was taken prior to dismissal.

- a. Hearing Officer. A list of employees from both the St. Thomas/St. John and St. Croix Districts will be used to select Hearing Officers. The Chief Justice may appoint qualified mediators outside the Judicial Branch to serve as a Hearing Officer. The Hearing Officers shall serve on a rotational basis and shall hear cases involving employees of the opposing District of which the Hearing Officer is stationed.
- b. Appropriate Action. In determining the type of action to be taken, the supervisor may consider the nature, extent, seriousness and effect of the act, error or omission committed; the type and frequency of previous undesirable behavior; the period of time that has elapsed since a prior offensive act; the previous performance evaluation of the employee; an assessment of information obtained from the employee; and any mitigating circumstances. The principles of progressive discipline shall be followed to the greatest extent practicable. Disciplinary action should be appropriate for the offending conduct and should be applied consistently. However, where warranted by circumstances and the seriousness of the infraction, severe discipline may be imposed notwithstanding the principles of progressive discipline.
- c. Procedure for Disciplinary Action. No disciplinary action shall be imposed unless, the employee fails to request a hearing in a timely manner or has requested and received a hearing and the final Hearing Officer has determined that disciplinary action is warranted. An employee may be placed on leave with pay during any investigation of the employee's conduct relative to a pending disciplinary action when there is reason to believe that the employee's continued presence may endanger the safety or welfare of the public, the Judicial Branch's employees, facilities, property, or when there is reason to believe that the employee's presence would impair the investigation.

7.4 **Disciplinary Process.**

Step 1: Prior to administering disciplinary action, the matter shall first be informally discussed between the employee to advise the employee of the problem, provide the employee an opportunity to respond or present mitigating evidence, discuss the importance of changing such behavior or improving such performance, and the recommended changes needed. Thereafter, a written personnel action statement or statement of the charges must be provided to the employee by the supervisor. The notification shall not be later than ten (10) working days after the occurrence of the incident, except in those cases where knowledge of the incident could not have been obtained earlier or, in the discretion of the Chief Justice, the alleged charge warrants extensive investigation and waiver of the ten (10) working day rule.

Step 2: If the supervisor's decision is not acceptable to the employee, the employee may request a hearing within seven (7) working days of receipt of the personnel action statement or statement of the charges. The request must be in writing to the respective administrative authority or his or her designee with copies to Human Resources and the charging supervisor. The Administrator of Courts or his or her designee shall designate a Hearing Officer to hear the case. The Hearing Officer must schedule the hearing within ten (10) days of receipt of the request. A hearing must then be held within thirty (30) days following receipt of the employee's written request, unless extended for good cause by the administrative authority.

If the employee does not request a hearing within the seven (7) working days, the decision of the charging supervisor will be considered by the administrative authority. The administrative authority has the authority and flexibility to render a wide range of decisions.

The administrative authority shall inform the employee in writing of the decision and explanation whether disciplinary action is taken or not, no later than ten (10) working days after the employee failed to request the hearing. Copies of the decision will be also be provided to the charging supervisor, Human Resources, and placed in the employee's personnel file.

If the employee requests a hearing, the employee and other participants shall have the right to be represented by counsel or other representative at the employees own expense. Judicial officers shall not serve as an employee's counsel. The Judicial Branch may be represented by the charging supervisor, his or her supervisor, and/or the Office of the General Counsel. Such additional Judicial Branch supervisory or managerial personnel may be allowed to attend and observe the hearing as deemed appropriate by the Judicial Branch. The Hearing Officer shall review the statements of the employee and supervisor, listen to relevant witnesses, and review pertinent documentary evidence provided by either party in reaching a decision concerning the imposition of disciplinary action. The hearing officer may allow discovery, deposition, or requests for information, but all such requests must be made by the party and completed no later than ten (10) days prior to the hearing. A verbatim record shall be kept of the hearing. Transcripts of the hearing may be requested by either party and provided at their expense.

The decision of the Hearing Officer shall be made within thirty (30) days of the hearing, be in writing, and copies served on each party. The notice shall include:

1. The specific disciplinary action being imposed and the reasons for its imposition, including specific details of the offense;
2. The remedial action to be taken by the employee, if any; and
3. A statement of the employee's right, if any, to appeal the disciplinary action, including the time limit in which the appeal must be filed, and the name and address of the person with whom it is to be filed.

The employee shall have the right to appeal the recommended disciplinary action in accordance with Sections 8.6. A copy of the disciplinary action shall be placed in the employee's personnel file and shall not be removed.

7.5. Employees Arrested or Charged with a Crime.

- i. An employee who is arrested or charged with any felony, any misdemeanor, or any traffic offense involving drugs or alcohol shall notify the administrative authority within three (3) days of being arrested or charged.
- ii. An employee charged with any felony, any misdemeanor, or any traffic offense involving drugs or alcohol shall be placed on leave but allowed to use annual leave, compensatory leave, or leave without pay. If the employee is not convicted, or if conviction is reversed upon appeal, and if the employee has not been dismissed pursuant to other provisions of this rule, the employee will be restored to employment. An employee who has been restored to employment may for good cause request in writing to the head of their division that his or her leave be restored. The Division Head, after consultation with the Administrator of Courts, shall make a recommendation to the Chief Justice who shall make the final decision. Employees who may have had a deferred adjudication, adjudication without conviction, or similar treatment of their charge are not eligible for restoration of leave.
- iii. An employee shall be dismissed upon conviction of any felony. Conviction includes any plea or finding of guilt, including a plea of nolo contendere, or acceptance of a deferred judgment and sentence.

7.6 Right to Appeal Disciplinary Actions. Employees, with the exception of those listed below, shall have the right to appeal disciplinary actions taken under this section, or involuntary terminations pursuant to Section 9.5. The following employees shall not have the right of appeal under this rule:

- i. Employees serving a probationary period
- ii. All directors, managers, supervisors, General Counsel and staff
- iii. Chief Disciplinary Counsel and staff
- iv. Law clerks
- v. Judicial officers' and administrative authorities' confidential staff (secretaries, and administrative staff)
- vi. Employees suspended pursuant to Section 7.3
- vii. Employees who resign pursuant to Rule 9.2 (d)

SECTION 8: GRIEVANCES AND APPEALS

8.1 Grievances. When employees believe that a condition of employment or a decision affecting them is unjust or inequitable, they may file a grievance with Human Resources. The following employees do not have the right of grievance established by this rule, except for grievances involving allegations of sexual harassment or unlawful harassment, discrimination, or retaliation in violation of Federal or Territorial law:

- i. Employees serving a probationary period
- ii. All directors, managers, supervisors, General Counsel and staff
- iii. Chief Disciplinary Counsel and staff
- iv. Law clerks
- v. Judicial officers' and Administrative Authorities' confidential staff (secretaries, and administrative staff)
- vi. Employees suspended pursuant to Section 7.3
- vii. Employees who resign pursuant to Rule 9.2 (d)

8.2 Issues That May Not Be Grievable. The following matters are not subject to the grievance procedure:

- i. Existence, content, administration and method of scoring of examinations.
- ii. Matters related to the designation of positions as excluded, exempt or non-exempt, as defined under the Fair Labor Standards Act.
- iii. Wage survey results.
- iv. Corrective actions.

8.3 Grievance Procedural Requirements. Failure of the employee to proceed as proscribed below shall be deemed a withdrawal of the grievance. By mutual agreement of the parties, the time limits under this rule may be waived or extended. Only the issues presented in the original written grievance shall be considered at any step of the grievance process.

Step 1: An employee may initiate a grievance by filing a written grievance with his or her supervisor and Human Resources within seven (7) working days of the incident being grieved. Within seven (7) working days after receiving the grievance, Human Resources shall meet with the employee and his or her supervisor. Thereafter, any investigation must commence. Within seven (7) working days of the meeting or conclusion of the investigation, Human Resources shall render a written decision to the employee. Such decision shall conclude the grievance and be binding on both parties unless the Human Resources fails to render a decision within seven (7) working days and/or the employee elects to proceed to Step 2.

Step 2: Within seven (7) working days of receiving the decision or the failure of Human Resources to render a decision at Step 1, the employee shall file with the Chairperson of the Grievance Review Board the original grievance and any responses the employee received during the grievance process. The Chairperson shall empanel the Grievance Review Board to decide the grievance. The parties shall have the opportunity to make informal oral argument to the Board. The Board shall render a decision within 30 days of the filing of the Step 2 grievance. The

decision of the Board shall be final, and not subject to appeal, review, or further grievance.

8.4 Grievance Review Board.

The Judicial Branch's Grievance Review Board shall be composed of three (3) members consisting of a judicial officer appointed by the Chief Justice, who shall serve as the Chairperson; an administrative authority appointed by the Administrator of Courts; and one (1) non-supervisory employee appointed by the Presiding Judge. In the event of a conflict or a member of the Grievance Review Board recuses him or herself from the matter, the appointing authority shall designate a replacement. The designee shall be similarly situated as the member who he or she is substituting.

If any eligible employee is denied the opportunity to present a grievance as prescribed by this rule, or if the employee is threatened or subjected to duress or retaliation as a result of presenting or proposing to present a grievance, the employee may notify the Administrator of Courts in writing. The Administrator of Courts shall have the employee's complaint investigated and, based upon the findings, may recommend action against the appropriate employee.

8.5 Appeal of Involuntary Termination. Employees, with the exception of those listed in Section 8.1, shall have the right to appeal involuntary terminations as set forth in Section 9.5(b) and (c). The following employees shall not have the right of appeal under this rule:

Employees suspended pursuant to Section 7.3

Employees who resign pursuant to Section 9.2(d)

8.6 Appeal Process for Grievances and Appeals. The Chief Justice may serve as, or may appoint another judicial officer or attorney to serve as the Hearing Officer for any appeals pursuant to these rules.

- a. Standard of Review. An action of the administrative authority which is appealable may be reversed or modified on appeal by the Hearing Officer only if there is a finding that the action was arbitrary, capricious, or contrary to the rule of law. The Hearing Officer shall have the power to administer oaths and issue subpoenas duces tecum as may be needed for carrying out the duties and responsibilities required by this rule. The Hearing Officer's jurisdiction shall be specifically limited to the action being appealed by an employee pursuant to this section.

An employee seeking to appeal the decision of the administrative authority, which is within the Hearing Officer's jurisdiction, shall file a written notice of appeal with the Hearing Officer. The employee shall also present a copy of the appeal to the administrative authority. An appeal shall be timely filed if it is received or time stamped within five (5) working days from the effective date of the action which is the subject of the appeal. Any appeal not received within these timeframes shall be denied, except that the Hearing Officer may extend the time for good cause.

- b. Right to Representation. The employee shall be entitled to representation of the employee's own choosing at the employee's own expense. The Judicial Branch shall be represented the Office of the General Counsel, or other counsel, if necessary. Each filed appeal must state in clear language and sufficient detail the employee's name, address, and telephone number and the name, address, and telephone number of the employee's representative. The appeal must describe the specific action being appealed, including the written notice of action from the administrative authority, the effective date of the action being appealed, and a concise statement giving the reason the action is being appealed including a statement identifying the reasons the employee believes the actions were arbitrary, capricious, or contrary to rule of law, and the relief requested.
- c. Hearing Officer. The Hearing Officer shall set the matter for hearing not later than thirty (30) days following the date of the filing of the appeal. The Hearing Officer may grant a continuance of the hearing, but only for good cause shown. The Hearing Officer may schedule pre-hearing conferences as needed to establish the process to be followed for the hearing. The Hearing Officer may allow discovery, deposition, or requests for information, but all such requests must be completed no later than ten (10) days prior to the hearing. Both parties are encouraged to resolve the appeal before hearing. However such an effort does not constitute a waiver or modification of the time limits in this rule.
- d. Conduct of the Hearing. The Hearing Officer shall conduct the hearing and afford the parties an opportunity to introduce evidence, including testimony and statements of the complaining employee, the employee's representative, the person whose action is being complained of, the administrative authority, their representatives, and other witnesses, and to cross-examine witnesses. Testimony shall be under oath or affirmation. Rules of evidence shall not be applied strictly, but the Hearing Officer shall exclude irrelevant or unduly repetitious evidence. The burden of proof shall be on the administrative authority to show that his or her actions were not arbitrary, capricious, or contrary to the rule of law. Failure, without good cause, of either party to appear at the scheduled hearing shall be deemed a withdrawal of the appeal. Hearings shall be closed to the public and Judicial Branch employees who are not parties to the action; however, the hearing shall be recorded either verbatim or electronically. Transcripts of the hearing may be requested by either party and provided at their expense.
- e. Decision of the Hearing Officer. Upon hearing the evidence and statements of the parties, after such deliberation as necessary, the Hearing Officer shall make findings and a decision on the issue of whether the action of the administrative authority was arbitrary, capricious, or contrary to rule of law, and what, if any, remedial action should be ordered, or whether the appeal should be dismissed or denied. The decision of the Hearing Officer shall be based upon a preponderance of the evidence. The decision of the Hearing Officer shall be made within thirty (30) days of the hearing, be in writing, and copies served on each party, General Counsel, the prior hearing officer, the respective judicial officer if applicable, and Human Resources. The decision of the Hearing Officer is final and shall not be subject to further review under these rules.

SECTION 9: SEPARATIONS FROM EMPLOYMENT

9.1 Suspension. An employee may, for disciplinary reasons, be suspended without pay for such length of time deemed appropriate following a disciplinary hearing.

9.2 Resignation.

- a. In order to resign, an employee shall submit a written resignation to the administrative authority with a copy to the immediate supervisor, Administrator of Courts, and to Human Resources at least 10 working days prior to the date the resignation is to become effective.
- b. The administrative authority may, for good cause, accept a lesser period of written notice than required by subsection (a) of this section.
- c. Failure of the employee to provide notice of resignation without good cause may result in the separation being administered as a dismissal.
- d. An employee who resigns, in lieu of disciplinary action or while under suspension, forfeits all rights to any grievance, appeal, or review concerning the suspension or disciplinary action.
- e. At the discretion and approval of the Chief Justice, the employee may for good cause withdraw the resignation at any time prior to its effective date.
- f. If within 180 days following resignation, a full-time regular employee who resigned for non-disciplinary reasons is re-hired into the same job classification in which the employee was employed at the time of the resignation, the employee shall have status as a reinstated employee.

9.3 Implied Resignation. An employee who, after an absence of five (5) or more consecutive working days, has failed to contact his or her supervisor and provide reasonable justification for the absence at the discretion of the administrative authority, shall be considered to have abandoned his or her job and resigned from employment with the Judicial Branch.

9.4 Layoff. In cases of financial or budgetary crises or in cases of substantial reduction of the workload of the various divisions of the Judicial Branch, or due to a restructure of the staffing pattern pursuant to section 2.14 employees may be laid off by the Administrator Courts with the approval of the Chief Justice in the following order:

- a. All contracted employees shall be terminated prior to layoff of any regular employee.
- b. Any probationary employees shall be terminated prior to layoff of any regular employee.
- c. Layoff of employees shall be made in inverse order by length of service with the Judicial Branch. If two or more employees in the same position scheduled for layoff have the same length of service, the order of layoff in such cases shall be determined by the Administrator of Courts, subject to the approval of the Chief Justice, who shall make a decision based upon the employees' performance reviews.
- d. Employees, including temporary or part-time, scheduled for layoff shall be given written notice of the proposed layoff and reasons therefore no less than 2 weeks before the effective date thereof.
- e. Each Division Head shall recommend the number of positions within each job class, in their respective Divisions, to be laid off.
- f. The names of employees laid off shall be placed on a list for the class in which the layoff took place and called back when possible based upon seniority. When a job opening for which the employee may be qualified occurs within the Judicial Branch, the senior employee on the recall list shall be given employment preference for the position.

- g. An employee who is terminated from the Judicial Branch as a result of a layoff may have the right of appeal as described in Section 8. “Grievances and Appeal”.

9.5 Termination/Dismissal. An employee may be terminated/dismissed from employment with the Judicial Branch:

- a. At any time during the employee’s probationary period if the employee does not satisfactorily perform his or her duties or the employee’s appointment was the result of fraud.
- b. For cause, such as, but not limited to, excessive or habitual absenteeism, theft, dishonesty, insubordination, conviction of a crime, assault, etc.
- c. For violating any proscription of the Judicial Branch of the VI’s Personnel Rules.

9.6 Rehire Eligibility. Persons separated from the Judicial Branch may be considered for rehire if separation from prior employment was voluntary or due to layoff and the employee left in good standing. Persons separated from the Judicial Branch under the following are not eligible for rehire:

- a. Dismissed for cause under these rules;
- b. Resigned while under disciplinary action or when the separation involved gross misconduct

9.7 Benefits Upon Termination. Employees who are terminated or laid off may be eligible for unemployment compensation and should contact the Virgin Islands Department of Labor. Employees may also be eligible for continuation of health benefits through COBRA and should contact the Judicial Branch’s Human Resources office.

9.8 Return of Judicial Branch’s Property. Employees who are on suspension, resign or are terminated or laid off must return any keys, electronic key cards, identification cards, cell phones, laptop computers, or any other property belonging to the Judicial Branch to their supervisor on their last day of employment with the Judicial Branch or prior to the start of the suspension. Failure to do so may result in the Judicial Branch retaining the employee’s final paycheck or a portion thereof. In the case of suspension, further disciplinary action may be warranted.

SECTION 10: EMPLOYEE BENEFITS

10.1 Group Health Insurance. In accordance with 3 V.I.C. §634(a), all persons in the service of the Government of the Virgin Islands shall participate in the health insurance plan unless they can provide annual proof to the Government’s Health Insurance Board that they are covered by a recognized health insurance plan, except the Board may adopt such rules and regulations to exclude temporary, part-time and intermittent employees. Employees are urged to contact the Division of Personnel, Group Insurance Office, at (340) 774-8588 or (340) 714-5000, for information regarding their individual coverage. Information is also available through the Judicial Branch’s Human Resources Office.

10.2 Workers’ Compensation. Pursuant to 24 V.I.C. §252(a), the Judicial Branch must pay compensation for the disability or death of an employee resulting from a personal injury or occupational disease arising out of and in the course of his employment. An employee, or someone

on his behalf, must provide the Judicial Branch with written notice of an accidental injury within 48 hours after the injury. In the case of an occupational disease, written notice by the employee or someone on his or her behalf must be given within 30 days from the first distinct manifestation of the disease. Employees who are injured on the job or while performing their job duties or who may have contracted an occupational disease are urged to immediately report it to Human Resources for assistance in obtaining and completing the necessary claim forms required by the Department of Labor.

- 10.3 Government Employees' Retirement System.** The Government of the Virgin Islands has established a retirement and benefits program for officials and employees of the Government and their dependents and beneficiaries for the payment of retirement annuities, disability annuities, and other benefits. This program is administered by the Government Employees' Retirement System (GERS). Employees who are considering retirement must notify, in writing, the Chief Justice, immediate supervisor, Human Resources and the GERS Administrator of his or her intent to retire at least three (3) months prior to the date of his or her retirement; but in no event shall a member give less than sixty (60) days' notice of his or her intent to retire. For additional information on eligibility, credited service, annuity and other retirement issues, please contact the GERS at (340) 776-7703 or (340) 718-5480.
- 10.4 Employee Assistance Program.** In order to assist Judicial Branch of the Virgin Islands employees with mental health problems or dependency on alcohol or drugs, the Judicial Branch utilizes the employee assistance program offered by the group health insurance plan. Coverage may also be provided for an employee's eligible dependents. Employees may voluntarily contact Human Resources or be referred by their supervisor, after consultation with the Human Resources Division. Human Resources may refer the employee to the appropriate facility or may contact the Government's Group Insurance Office to obtain information and/or assistance regarding the available programs. All information regarding an employee's diagnosis, treatment, etc. shall be maintained in the employee's confidential medical file in the Human Resources office and remain confidential. (See also Section 6.9 Drug and Alcohol Use)
- 10.5 Education Incentive and Tuition Reimbursement Programs.** These programs are currently under review and audit to determine sustainability, subject to the availability of funds. No new applications are being accepted into these programs.
- 10.6 Professional Dues and Fees.** The Administrator of Courts is authorized to defray the cost of professional dues and fees for legal, judicial, and Judicial Branch reporting staff of the Judicial Branch of the Virgin Islands with respect to membership in such organizations, whether local, national, or international, for which the dues and fees are otherwise classified as ordinary and necessary business expenses.
- 10.7 Credit Union.** There are four (4) credit unions from which employees may be eligible to open an account or apply for various loans. They are:
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|-------------------------------------|--|
| (1) St. Thomas Federal Credit Union | (2) The St. Croix Federal Credit Union |
| 34B-35 Norre Gade, | 38 Queen Cross Street, |
| St. Thomas, Virgin Islands | St. Croix, Virgin Islands |
| (340) 774-1299 | (340) 773-5444 |

- | | |
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| (3) The Frederiksted Federal Credit Union
60 King Street, Frederiksted,
St. Croix, Virgin Islands
(340) 772-0435 | (4) Mid-Island Federal Credit Union
5398 Sunny Isles,
St. Croix, Virgin Islands
(340) 778-6297 |
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Employees should contact the credit union to obtain information regarding the services it offers, policies and procedures, etc.

- 10.8 Summer Youth Employment Program.** The Judicial Branch participates in a Summer Youth Employment Program which employs high school and college students during the summer. College students must submit a résumé, official transcript, and a letter of intent by March 31st of the year of desired employment. High school students are also eligible to apply for summer employment with the Judicial Branch. Human Resources shall annually submit a memorandum by January 31st to every employee of the Judicial Branch informing the employees of the number of positions available for that summer, the starting and ending dates of the summer program, the application process including the closing date for applications to be submitted, the criteria for selection, and any other pertinent information. The Judicial Branch encourages the hiring of children of employees in its summer program. However, the Judicial Branch is cognizant of the fact that there are limited positions. Therefore, in order to allow every employee to take advantage of the summer youth employment program, a rotational system is established wherein new students will have preference over students who worked the previous year. New students are children of employees of the Judicial Branch who have never participated in the Judicial Branch's youth employment program but who are eligible for and meet the criteria for employment in the program.
- 10.9 Health and Fitness Program.** The Judicial Branch recognizes the importance of maintaining a healthy and fit workforce through a health and fitness program. Employees must comply with the policy which can be received from the Human Resources Division.

SECTION 11: MISCELLANEOUS

- 11.1 Travel Regulations.** All official travel must be in accordance with the Judicial Branch's Travel Regulations which can be obtained from the Human Resources Division.
- 11.2 All other Policies.** Employees must comply with all subsequent policies issued by the Judicial Branch but not included within this policy. No other policies may conflict with the policies adopted in these rules. However additional policies can be created with the approval of the Chief Justice when no policies are described or outlined in these rules.