

SUPREME COURT OF APPEALS
STATE OF WEST VIRGINIA

TED PHILYAW
ADMINISTRATIVE DIRECTOR



FILED
1989 DEC 18 AM 11:11
ADMINISTRATIVE OFFICE
E-400 STATE CAPITOL
CHARLESTON 25305
WEST VIRGINIA
SECRETARY OF STATE

December 15, 1989

Honorable Ken Hechler
Secretary of State
State of West Virginia
Capitol Complex
Charleston, West Virginia 25305

Dear Mr. Hechler:

Enclosed for your review and files are copies of the Judiciary's revised regulations on travel and education benefits (the latter include some special travel provisions). These regulations are part of the new West Virginia Judicial Personnel System Manual, promulgated by the Supreme Court, effective January 1, 1990.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ted Philyaw".

TED PHILYAW
Administrative Director
of the Courts

TP/mg

Enclosures

cc: Hon. Glen B. Gainer, Jr.
State Auditor

**WEST VIRGINIA
JUDICIAL PERSONNEL SYSTEM MANUAL**

*** * ***

**PROMULGATED BY
THE WEST VIRGINIA
SUPREME COURT OF APPEALS**

*** * ***

J A N U A R Y 1 9 9 0

SECTION 9: EDUCATION BENEFITS

9.1 -- TUITION REIMBURSEMENT

Court personnel may receive tuition and/or registration fee reimbursement for in-state undergraduate, graduate, or noncredit continuing education courses or programs relevant to their job responsibilities, subject to the following requirements:

(A) The employee must, in advance, apply and make a case for the relevance of the course or program (see Section 9.4(A) and, for application form, Appendix C).

(B) Final determination of relevance will be made by the Director of Judicial Education or the Administrative Director.

(C) Reimbursement will be made, for courses or programs previously approved as relevant, after submission of documentation of payment (see Section 9.4(B)).

(D) An employee who receives reimbursement for an undergraduate or graduate course offered for credit must submit, within one month after finishing the course, satisfactory verification of having completed the course, i.e., of having received credit (see Section 9.4(D)). An employee who does not submit timely verification, without good cause as determined by the Director of Judicial Education or Administrative Director, must repay the amount earlier reimbursed for the course. If an employee fails to

submit timely verification and fails to repay, the employee will be ineligible for any further education benefits until repayment has been made.

9.2 -- MILEAGE REIMBURSEMENT

Court personnel may receive reimbursement for mileage to attend courses or programs previously approved as relevant and offered outside the county of residence. Allowable reimbursement will be for actual mileage from work place or residence to the course or program location and return.

9.3 -- LODGING AND MEAL REIMBURSEMENT

Court employees may receive reimbursement for lodging and meals associated with attendance at in-state courses and programs only in special circumstances and with advance approval by the Director of Judicial Education or Administrative Director.

9.4 -- APPLICATION AND REIMBURSEMENT PROCEDURES

Submission of the following to the Director of Judicial Education is required:

(A) In advance: an application, on the form provided in Appendix C, for determination of relevance and/or educational leave.

(B) After approval: a filled out and signed in-state travel expense account (see Appendix C) in triplicate together with either an original receipt for tuition and/or registration fees OR three photocopies of both sides of the cancelled check for tuition and/or registration fees.

(C) At the end of a course, if reimbursement has been approved for mileage, lodging, and/or meals: a separate in-state travel expense account showing the date, places, and amounts for each trip. Reimbursement for such expenses is subject to the Supreme Court travel regulations (Section 10) and to any further limitations set in particular instances by the Director of Judicial Education or Administrative Director.

(D) Within one month after finishing a course offered for undergraduate or graduate credit: verification of course completion. The grade report or copy thereof is satisfactory for this purpose.

9.5 -- OUT-OF-STATE EDUCATION PROGRAMS

Requests to attend out-of-state education programs at state expense must be submitted to the Administrative Director or Director of Judicial Education for review and approval. Final approval by the Chief Justice of the Supreme Court is required. Cash advances and/or reimbursement allowances for attendance at out-of-state programs are governed by the Supreme Court travel regulations. (See Section 10, especially 10.3.)

SECTION 10: TRAVEL REGULATIONS

The regulations set out in this section supersede the travel regulations previously promulgated by the Supreme Court of Appeals, effective January 23, 1989.

10.1 -- GENERAL PROVISIONS

(A) An employee's official headquarters is the same as that of the court at which or the judge under whom personnel work. A judge's home-base courthouse is his or her headquarters. If circumstances require that a judge's employee maintain headquarters different from the judge's, such different headquarters must, in writing, be designated by the chief judge and approved by the Chief Justice. In no event will an employee be reimbursed for commuting from his residence to headquarters, except for judges as provided by statute.

(B) Individuals who are conducting, under the Supreme Court, official business or who are being interviewed for employment within the state judicial system will be allowed reimbursement for expenses under the regulations of this section.

(C) The standard state travel expense account form must be used for submission of all claims (see Appendix C). Claim items and amounts must be listed day-by-day for each date of travel, and receipts must be attached for items requiring documentation. The claimant must sign the expense account.

Expense accounts of employees other than judges claiming expenses for local duty travel must be certified by the appropriate supervising circuit judge, chief magistrate, or chief probation officer; all other expense accounts must be certified by an Administrative Office staff member having signature authority.

(D) No "miscellaneous" listing claimed on an expense account will be allowed. Expenses not entailed in travel and expenses of, paid by, or reimbursed by a third party will not be allowed.

(E) The following expense claims, if otherwise allowable, require the submission of documentation with the expense account:

- (1) Air fare: original customer receipt portion of the airline ticket.
- (2) Lodging: original hotel bill showing full credit or zero balance; if not showing such, either the original customer copy of the credit card slip or a photocopy of both sides of the cancelled check together with the original hotel bill.
- (3) Parking: original receipt.
- (4) Ground transportation (taxi; airport bus, van, or limo; car rental and gasoline): original receipt.
- (5) Conference tuition, registration, or other fees (for seminars, workshops, or conventions): original receipt or photocopy of both sides of cancelled check -- unless, for out-of-state conferences, billed directly to the Supreme Court.

10.2 -- IN-STATE TRAVEL

(A) TRANSPORTATION: PERSONAL VEHICLE

(1) Reimbursement will be allowed for driving, by the most direct and/or practical route, from and return to headquarters to perform duties or engage in other approved activities.

(2) Allowable reimbursements will be for: mileage at the rate of \$.24 per mile, unless otherwise provided by statute or special Supreme Court regulation; toll charges; parking, which must be documented by original receipt.

(B) TRANSPORTATION: RENTAL VEHICLE

(1) Reimbursement will be allowed for car rental only if the Administrative Director or his designee has granted approval in advance; the limitations of (A)(1) above will apply.

(2) Allowable reimbursements will be for: rental charges (but not optional insurance) and gasoline, both of which must be documented by original receipt; toll charges; parking, which must be documented by original receipt.

(C) TRANSPORTATION: COMMON CARRIER OR PUBLIC CONVEYANCE

(1) Reimbursement will be allowed for commercial airline, train, or bus (at tourist or economy rates, unless the travel time exceeds three hours).

(2) Allowable reimbursement will be for: ticket or fare cost, which must be documented by original customer ticket stub, original receipt, or photocopy of both sides of cancelled check; taxi (which must be documented by original receipt); mileage and parking (the latter must be documented by original receipt) if airport or station is outside the headquarters county.

(D) LODGING

(1) Reimbursement or direct bill to the Supreme Court will be allowed for overnight stays more than 40 miles from headquarters when required to perform official duties or to engage in other approved activities.

(2) Allowable reimbursement or direct bill to the Supreme Court will be at the single-occupancy (and, if available, government or conference) rate; the cost (unless direct-billed) must be documented by the original hotel bill showing full credit or a zero balance; if not showing such, by either the original customer copy of the credit card slip or a photocopy of both sides of the cancelled check together with the original hotel bill.

(3) Reimbursement will be allowed for necessary transfer or storage of baggage on the check-in or check-out dates not to exceed 10% of the daily single-occupancy hotel rate.

(4) No reimbursement will be allowed for such extra hotel charges as radio, television, movies, bar bills, laundry, valet service, or personal telephone calls or for any lodging or meal charges for an employee's guest(s).

(5) When two employees share a room and are billed at the double-occupancy rate, each employee will share the cost equally and the cost should be billed/receipted equally unless direct-billed to the Supreme Court.

(E) MEALS

(1) Reimbursement will be allowed, except for judges receiving the statutory per diem, when travel outside an employee's headquarters county is required to perform official duties or to engage in other approved activities.

(2) Allowable reimbursement will be a flat per diem of \$25, except: on the last day of a conference it will be \$12.50 if the return distance is under 200 miles; on banquet day, if the banquet is direct-billed to the Supreme Court, the per diem will be reduced by the amount of the banquet cost; for out-of-county duty travel with same-day return, the limit will be \$5.00 for lunch.

(3) Personnel who attend a banquet at a conference sponsored by the Supreme Court may be reimbursed the banquet cost or have the cost direct-billed to the Supreme Court, regardless of whether the event is inside or outside the headquarters county.

(4) The costs of all coffee breaks or refreshments during functions sponsored by the Supreme Court will be paid directly by the Court and will not reduce the meal allowance for personnel participating in the functions.

(F) DIFFERING REGULATIONS FOR EDUCATION TRAVEL

For specific variations in allowances for education-related travel, prevailing over this section's regulations, see Sections 9.2, 9.3, and 9.4(C).

10.3 -- OUT-OF-STATE TRAVEL

(A) APPROVAL: requests must be submitted well in advance for review by the Administrative Director or Director of Judicial Education. Only requests forwarded to and approved by the Chief Justice will entitle personnel to travel out of state at state expense. Requests must include information sufficient to show justification and to show approximate costs. An exception to the approval requirement and procedure above is that expense accounts by probation officers for out-of-state duty travel need only be accompanied by a court order directing such travel.

(B) CONFERENCE TUITION, REGISTRATION, OR OTHER FEES: unless billed directly to the Supreme Court, reimbursement will be allowed at actual cost for seminars, workshops, or conventions as documented by original receipt or photocopy of both sides of cancelled check.

(C) TRANSPORTATION: allowances for transportation will be the same as provided in Section 10.2(A)-(C), except that, when travel is by automobile outside the state, reimbursement for transportation, meals, and hotel together on the days en route may not exceed the round-trip first-class fare for travel by commercial airline to and from the destination.

(D) LODGING: allowances for lodging will be the same as provided in Section 10.2(D), except that, for approved attendance at programs conducted by the National Judicial College, the American Academy of Judicial Education, and other national providers, reimbursement will be limited to the amounts charged for the lodging accommodations provided or made available by the program sponsor (e.g., the College Inn or other facility at Reno; University of Virginia housing or other facility at Charlottesville).

(E) MEALS: allowable reimbursement for meals will be a flat per diem of \$35.

(F) CASH ADVANCES

(1) The Administrative Director or the Director of Judicial Education may, upon timely request, approve a cash advance for out-of-state travel that the Chief Justice has previously approved.

(2) A request for a cash advance for out-of-state travel must be communicated to the Administrative Office at least three weeks in advance of the expected departure date.

(3) A cash advance reflects an estimate, possibly an overestimate, of expenses to be incurred for approved out-of-state travel. A cash advance is not a minimum allowance or guarantee, and any surplus (amount beyond actual allowable expenditures) must be refunded to the state at the time of settlement.

(4) Anyone receiving a cash advance is personally responsible for filing actual allowable expenses and making final settlement, through the Administrative Office, within one month after the return date of the out-of-state trip.

SECTION 11: MISCELLANEOUS PROVISIONS

11.1 -- CERTIFICATE OF ELECTION; COMMISSION OF OFFICE;

OATH OF OFFICE

Certificates of election must be filed with the West Virginia Secretary of State.

All justices, judges, and magistrates must first be commissioned by the governor, and then must take the oath of office required by W.Va. Constitution, Art. IV, § 5.

Magistrate court clerks, deputy clerks, and assistants must take an oath of office. W.Va. Code § 50-1-10.

11.2 -- REPORTING FOR JUSTICES, JUDGES, AND MAGISTRATES

In accordance with W.Va. Code § 51-1-17(b) and Supreme Court administrative order promulgated June 25, 1981, every justice, judge, and magistrate must report monthly the actual amount of time, including travel time, spent in the conduct of his official duties in court.

The approved report form may be found in Appendix C. Completed forms are due in the Administrative Office no later than the tenth day of the month following the report period. The filed reports are public records, available for inspection by the public.

Justices, judges, and magistrates who fail to comply with these reporting requirements will be subject to disciplinary proceedings through the Judicial Investigation Commission in conformity with the Judicial Code of Ethics, Canon 3B.

11.3 -- STATUTORY REQUIREMENTS FOR MAGISTRATE ASSISTANTS AND
MAGISTRATE COUNTY DEPUTY CLERKS

Magistrate assistants and magistrate court deputy clerks must be residents of the county where they are employed.

A magistrate assistant may not be a member of the immediate family of any magistrate. A magistrate court deputy clerk may not be a member of the immediate family of any magistrate court clerk, magistrate assistant, or circuit court judge within the same county. Immediate family means the relationships of mother, father, sister, brother, child, or spouse.

See W.Va. Code §§ 50-1-9 and 9a.

11.4 -- LIMITATIONS ON OUTSIDE EMPLOYMENT

All judicial-branch personnel are prohibited from engaging in any outside employment that might be construed as interfering with performance in a judicial-branch position.

All court-employed attorneys are prohibited from the outside practice of law.

Before any judicial-branch employee may engage in outside employment for which there is remuneration, he must submit a written request to the Administrative Director for review and approval. The Administrative Director must determine, with guidance from the Supreme Court or Chief Justice, whether such employment entails a conflict of interest, an impropriety, or the appearance of impropriety.

Basic guidance on outside employment is provided by the Code of Judicial Ethics. Canon 5 states: "A judge should regulate his extra-judicial activities to minimize the risk of conflict with his judicial duties." Canon 3B.2 states: "A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him."