



MI ORDER 07-34  
2007 MICHIGAN COURT ORDER 34 (C.O. 34)

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**COURT RULES**

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Pub Note: Additions are indicated by **Text**; deletions by ~~Text~~. Changes in tables are made but not highlighted

MI ORDER 34

C.O. 34

COURT RULES

SUPREME COURT OF MICHIGAN

Amendments of Administrative Order No. 1998-5

Effective October 1, 2007

**Order**

Entered: September 18, 2007

ADM File No 2006-19

**<< MI R ADMIN Order 1998-5 >>**

On order of the Court, the following amendments of Administrative Order No. 1998-5 are effective October 1, 2007:

1. In subsection II, delete the first two sentences
2. In subsection II, insert "court" between "proposed" and "budget" in the third sentence.
3. In subsection II, insert "court" between "a" and "budget" in the fourth sentence.

KELLY, J., would not adopt the proposed changes without first publishing the proposal for comment.

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END OF DOCUMENT

Westlaw.

MI R ADMIN Order 1998-5  
Administrative Order 1998-5

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**This document has been updated. Use KEYCITE.**Michigan Compiled Laws Annotated Currentness  
Michigan Court Rules of 1985  
Administrative Orders of the Michigan Supreme Court**→ ADMINISTRATIVE ORDER 1998-5. CHIEF JUDGE RESPONSIBILITIES; LOCAL INTER-  
GOVERNMENTAL RELATIONS**

On order of the Court, the following order is effective immediately. This order replaces Administrative Order No. 1997-6, which is rescinded.

**I. APPLICABILITY**

This Administrative Order applies to all trial courts as defined in MCR 8 110(A).

**II. COURT BUDGETING**

If the local funding unit requests that a proposed court budget be submitted in line-item detail, the chief judge must comply with the request. If a court budget has been appropriated in line-item detail, without prior approval of the funding unit, a court may not transfer between line-item accounts to: (a) create new personnel positions or to supplement existing wage scales or benefits, except to implement across the board increases that were granted to employees of the funding unit after the adoption of the court's budget at the same rate, or (b) reclassify an employee to a higher level of an existing category. A chief judge may not enter into a multiple-year commitment concerning any personnel economic issue unless: (1) the funding unit agrees, or (2) the agreement does not exceed the percentage increase or the duration of a multiple-year contract that the funding unit has negotiated for its employees. Courts must notify the funding unit or a local court management council of transfers between lines within 10 business days of the transfer. The requirements shall not be construed to restrict implementation of collective bargaining agreements.

**III. FUNDING DISPUTES; MEDIATION AND LEGAL ACTION**

If, after the local funding unit has made its appropriations, a court concludes that the funds provided for its operations by its local funding unit are insufficient to enable the court to properly perform its duties and that legal action is necessary, the procedures set forth in this order must be followed.

1. Legal action may be commenced 30 days after the court has notified the State Court Administrator that a dispute exists regarding court funding that the court and the local funding unit have been unable to resolve, unless mediation of the dispute is in progress, in which case legal action may not be commenced within 60 days of the commencement of the mediation. The notice must be accompanied by a written communication indicating that the chief judge of the court has approved the commencement of legal proceedings. With the notice, the court must supply the State Court Administrator with all facts relevant to the funding dispute. The State Court Administrator may extend this period for an additional 30 days.

2. During the waiting period provided in paragraph 1, the State Court Administrator must attempt to aid the court and the involved local funding unit to resolve the dispute.

3. If, after the procedure provided in paragraph 2 has been followed, the court concludes that a civil action to compel funding is necessary, the State Court Administrator must assign a disinterested judge to preside over the action.

4. Chief judges or representatives of funding units may request the assistance of the State Court Administrative Office to mediate situations involving potential disputes at any time, before differences escalate to the level of a formal funding dispute.

#### IV. LOCAL COURT MANAGEMENT COUNCIL OPTION

Where a local court management council has been created by a funding unit, the chief judge of a trial court for which the council operates as a local court management council, or the chief judge's designee, may serve as a member of the council. Unless the local court management council adopts the bylaws described below, without the agreement of the chief judge, the council serves solely in an advisory role with respect to decisions concerning trial court management otherwise reserved exclusively to the chief judge of the trial court pursuant to court order and administrative order of the Supreme Court.

A chief judge, or the chief judge's designee, must serve as a member of a council whose nonjudicial members agree to the adoption of the following bylaws:

1) Council membership includes the chief judge of each court for which the council operates as a local court management council.

2) Funding unit membership does not exceed judicial membership by more than one vote. Funding unit membership is determined by the local funding unit; judicial membership is determined by the chief judge or chief judges. Judicial membership may not be an even number.

3) Any action of the council requires an affirmative vote by a majority of the funding unit representatives on the council and a majority vote of the judicial representatives on the council.

4) Once a council has been formed, dissolution of the council requires the majority vote of the funding unit representatives and the judicial representatives of the council.

5) Meetings of the council must comply with the Open Meetings Act. [FN1] Records of the council are subject to the Freedom of Information Act. [FN2]

If such bylaws have been adopted, a chief judge shall implement any personnel policies agreed upon by the council concerning compensation, fringe benefits, and pensions of court employees, and shall not take any action inconsistent with policies of the local court management council concerning those matters. Management policies concerning the following are to be established by the chief judge, but must be consistent with the written employment policies of the local funding unit except to the extent that conformity with those policies would impair the operation of the court: holidays, leave, work schedules, discipline, grievance process, probation, classification, personnel records, and employee compensation for closure of court business due to weather conditions.

As a member of a local court management council that has adopted the bylaws described above, a chief judge or the chief judge's designee must not act in a manner that frustrates or impedes the collective bargaining process. If an impasse occurs in a local court management council concerning issues affecting the collective bargaining

process, the chief judge or judges of the council must immediately notify the State Court Administrator, who will initiate action to aid the local court management council in resolving the impasse. It is expected that before and during the collective bargaining process, the local court management council will agree on bargaining strategy and a proposed dollar value for personnel costs. Should a local court management council fail to agree on strategy or be unable to develop an offer for presentation to employees for response, the chief judge must notify the State Court Administrator. The State Court Administrator must work to break the impasse and cause to be developed for presentation to employees a series of proposals on which negotiations must be held.

#### **V. PARTICIPATION BY FUNDING UNIT IN NEGOTIATING PROCESS**

If a court does not have a local court management council, the chief judge, in establishing personnel policies concerning compensation, fringe benefits, pensions, holidays, or leave, must consult regularly with the local funding unit and must permit a representative of the local funding unit to attend and participate in negotiating sessions with court employees, if desired by the local funding unit. The chief judge shall inform the funding unit at least 72 hours in advance of any negotiating session. The chief judge may permit the funding unit to act on the chief judge's behalf as negotiating agent.

#### **VI. CONSISTENCY WITH FUNDING UNIT PERSONNEL POLICIES**

To the extent possible, consistent with the effective operation of the court, the chief judge must adopt personnel policies consistent with the written employment policies of the local funding unit. Effective operation of the court to best serve the public in multicounty circuits and districts, and in third class district courts with multiple funding units may require a single, uniform personnel policy that does not wholly conform with specific personnel policies of any of the court's funding units.

**1. Unscheduled Court Closing Due to Weather Emergency.** If a chief judge opts to close a court and dismiss court employees because of a weather emergency, the dismissed court employees must use accumulated leave time or take unpaid leave if the funding unit has employees in the same facility who are not dismissed by the funding unit. If a collective bargaining agreement with court staff does not allow the use of accumulated leave time or unpaid leave in the event of court closure due to weather conditions, the chief judge shall not close the court unless the funding unit also dismisses its employees working at the same facility as the court. Within 90 days of the issuance of this order, a chief judge shall develop and submit to the State Court Administrative Office a local administrative order detailing the process for unscheduled court closing in the event of bad weather. In preparing the order, the chief judge shall consult with the court's funding unit. The policy must be consistent with any collective bargaining agreements in effect for employees working in the court.

**2. Court Staff Hours.** The standard working hours of court staff, including when they begin and end work, shall be consistent with the standard working hours of the funding unit. Any deviation from the standard working hours of the funding unit must be reflected in a local administrative order, as required by the chief judge rule, and be submitted for review and comment to the funding unit before it is submitted to the SCAO for approval.

#### **VII. TRAINING PROGRAMS**

The Supreme Court will direct the development and implementation of ongoing training seminars of judges and funding unit representatives on judicial/legislative relations, court budgeting, expenditures, collective bargaining, and employee management issues.

#### **VIII. COLLECTIVE BARGAINING**

For purposes of collective bargaining pursuant to 1947 PA 336, a chief judge or a designee of the chief judge

shall bargain and sign contracts with employees of the court. Notwithstanding the primary role of the chief judge concerning court personnel pursuant to MCR 8 110, to the extent that such action is consistent with the effective and efficient operation of the court, a chief judge of a trial court may designate a representative of a local funding unit or a local court management council to act on the court's behalf for purposes of collective bargaining pursuant to 1947 PA 336 only, and, as a member of a local court management council, may vote in the affirmative to designate a local court management council to act on the court's behalf for purposes of collective bargaining only.

#### IX. EFFECT ON EXISTING AGREEMENTS

This order shall not be construed to impair existing collective bargaining agreements. Nothing in this order shall be construed to amend or abrogate agreements between chief judges and local funding units in effect on the date of this order. Any existing collective bargaining agreements that expire within 90 days may be extended for up to 12 months.

If the implementation of 1996 PA 374 pursuant to this order requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer, subject to all rights and benefits they held with the former court employer. The employer shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits thus protected may be altered by a future collective bargaining agreement.

#### X. REQUESTS FOR ASSISTANCE

The chief judge or a representative of the funding unit may request the assistance of the State Court Administrative Office to facilitate effective communication between the court and the funding unit.

#### CREDIT(S)

[Entered December 28, 1998, 459 Mich; amended September 18, 2007, effective October 1, 2007, 480 Mich.]

[FN1] MCL 15.261 *et seq.*

[FN2] MCL 15.231 *et seq.*

2007 Electronic Pocket Part Update

Comment to 2007 Amendment

Kelly, J., would not adopt the proposed changes without first publishing the proposal for comment

#### CROSS REFERENCES

Chief judge rule, see MCR 8 110

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Current with amendments received through April 1, 2008

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