

# MICHIGAN STATE PLANNING BODY

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## Co-Chairs:

**Hon. Judith E. Levy**  
U.S. District Court  
Eastern District Of Michigan  
**Angela R. Tripp**  
Co-Executive Director  
Michigan Statewide  
Advocacy Services

## Agenda Committee:

**Bob Gillett**  
Attorney at Law  
**Hon. Elizabeth Hines**  
15<sup>th</sup> District Court  
**Hon. Denise Page Hood**  
U.S. District Court  
Eastern District of Michigan  
**Ashley Lowe**  
Lakeshore Legal Aid  
**Jonathan Sacks**  
State Appellate Defenders  
Organization

January 31, 2020

Clerk, Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

Re: Comments on ADM File No. 2018-35 – Proposed Amendments of MCR 8.108

Dear Supreme Court Clerk,

I am writing on Behalf of the Michigan State Planning Body for Delivery of Legal Services to the Poor (Planning Body) to provide input on the proposed rules referenced above. The Planning Body is made up of representatives from the bench, bar, community services organizations, and providers of both civil and criminal legal services to the poor. The mission of the planning Body is to plan, organize, and coordinate effective legal services delivery systems in Michigan.

The Planning Body supports the State Bar of Michigan Board of Commissioners' (Board) comment with one additional amendment. In section 1 of the Board's comment, they suggest that transcripts should only be provided at public expense if the court determines that the transcript is needed to pursue further litigation. We suggest amending subsection (E)(1) to expand the scope of permissible reasons to receive a transcript at public expense. We fully support sections 2 and 3 of the Board's comment.

We suggest stating explicitly that a litigant has a right to a transcript if they *intend* to pursue litigation. In some circumstances a litigant may ask for a transcript because they plan to file an appeal, but later choose not to file for valid reasons. We are concerned that some courts might then charge litigants for transcripts that were not ultimately used in furtherance of litigation. We would also add that transcripts needed to enforce court orders or to aid parties in compliance with court orders should be allowed at public expense for those litigants whose fees have been waived. Access to adequate information about court proceedings allows parties to understand and comply with court orders. Lack of comprehension about legal processes can lead to non-compliance and costly continuances for users and courts during the process, and even more costly enforcement actions after a judgment has been rendered.

Transcript costs are one of many barriers to low-income people accessing the appellate courts and ensuring compliance with a court's orders, and removing this barrier is a positive step for increasing access to justice. The court rule as proposed gives courts discretion to order transcripts to be prepared without expense to the litigant. We believe that increased access to courts should be applied consistently across the state, and in furtherance of this view, suggest that the Court adopt a standard to give some guidance as to when transcripts should be available to litigants at no cost.

We suggest amending subsection (E)(1) as follows. To highlight our revisions, we removed the markup from the proposed rule and show our suggestions using underline:

(E) Preparing Transcript. The court reporter or recorder shall prepare without delay, in legible English, a transcript of the records taken by him or her (or any part thereof):

(1) to any party on request. The reporter or recorder is entitled to receive the compensation prescribed in the statute on fees from the person who makes the request, unless the person is granted a fee waiver pursuant to MCR

2.002. If a party has a fee waiver and requests a transcript or portion of a transcript, the court shall order the transcript pursuant to subsection (E)(2), below.

Respectfully submitted,

*Angela Tripp*

Angela Tripp, Co-Chair  
Michigan State Planning Body