

# Order

Michigan Supreme Court  
Lansing, Michigan

April 3, 2019

Bridget M. McCormack,  
Chief Justice

ADM File No. 2019-03

David F. Viviano,  
Chief Justice Pro Tem

Proposed Amendment of  
Rule 8.110 of the  
Michigan Court Rules

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Stephen J. Markman  
Brian K. Zahra  
Richard H. Bernstein  
Elizabeth T. Clement  
Megan K. Cavanagh,  
Justices

On order of the Court, this is to advise that the Court is considering an amendment of Rule 8.110 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at [Administrative Matters & Court Rules page](#).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and  
deleted text is shown by strikeover.]

## Rule 8.110 Chief Judge Rule

- (A) [Unchanged.]
- (B) Chief Judge, Chief Judge Pro Tempore, and Presiding Judges of Divisions.
  - (1) The Supreme Court shall select a judge to serve as chief judge of each trial court. When SCAO is considering recommending appointment of a chief judge of a specific group of courts, SCAO shall inform and seek input from those courts. Any judge of a court or group of courts may submit an application or recommendation to SCAO regarding the selection of a chief judge for that court or group of courts. The application for appointment of chief judge shall be made available to all judges. The application will describe the criteria for selection of chief judge, and will include an opportunity for any judge or judges to provide information to the Court regarding the selection of a particular person as chief judge. The input submitted from judges in a court for which a chief judge is being selected shall be given respectful consideration.
  - (2) [Unchanged.]

(3) The chief judge, chief judge pro tempore, and any presiding judges shall serve a two-year term beginning on January 1 of each even-numbered year, provided that the chief judge serves at the pleasure of the Supreme Court and the chief judge pro tempore and any presiding judges serve at the pleasure of the chief judge. A chief judge shall attend training as required by the state court administrator.

(4) [Unchanged.]

(C) Duties and Powers of Chief Judge.

(1)-(8) [Unchanged.]

(9) The delegation of such authority to a chief judge does not in any way limit the Supreme Court's authority to exercise "general superintending control over all courts" under Const 1963, art 6, § 4.

(D) Court Hours; Court Holidays; Judicial Absences.

(1)-(2) [Unchanged.]

(3) ~~Judicial Vacation Standard. A judge is expected to~~may take an annual vacation leave of ~~20~~30 days ~~with the approval of the chief judge to ensure docket coordination and coverage. A judge may take an additional 10 days of annual vacation leave with the approval of the chief judge.~~—A maximum of ~~30~~15 days of annual vacation unused due to workload constraints may be carried ~~from one calendar year into the first quarter of the next calendar year and used during that quarter, if approved by the chief judge.~~ Vacation days do not include:

(a) [Unchanged.]

(b) ~~attendance, with the chief judge's approval,~~ at educational meetings or seminars;

(c) ~~attendance, with the chief judge's approval,~~ at meetings of judicial committees or committees substantially related to judicial administration of justice;

(d)-(e) [Unchanged.]

(4) Judicial Education Leave Standard. A judge is expected to take judicial education leave of 2 weeks every 3 years to participate in continuing legal

education and training at Michigan judicial training programs and nationally recognized judicial education programs, including graduate and refresher courses. Judicial education leave does not include judicial conferences for which attendance is required. The use of judicial education leave ~~approved by the chief judge~~ does not affect a judge's annual leave.

- (5) **Judicial Professional Leave Standard.** Judges are encouraged, as part of their regular judicial responsibilities, to participate in professional meetings and conferences that advance the administration of justice or the public's understanding of the judicial system; to serve on commissions and committees of state and national organizations that contribute to the improvement of the law or that advance the interests of the judicial system; and to serve on Supreme Court-appointed or in-house assignments or committees. The use of judicial professional leave ~~approved by the chief judge~~ does not affect a judge's annual leave or education leave.
- (6) **Approval of Judicial Absences.** A judge may not be absent from the court without ~~the chief judge's prior approval, notifying the chief judge~~ except for personal illness. ~~In making the decision on a request to approve a vacation or other absence, the chief judge shall consider, among other factors, the pending caseload of the judge involved.~~ The chief judge shall ~~withhold approval of~~ may require a judge to forego vacation, judicial education, or judicial professional leave ~~that conforms to these standards only if withholding approval is necessary to ensure the orderly conduct of judicial business~~ docket coordination and coverage. The chief judge shall maintain records of absences to be available at the request of the Supreme Court.

*Staff comment:* The proposed amendment of MCR 8.110 would provide additional opportunity for input by judges in the process for chief judge selection in courts, would clarify that vacation leave time may be taken by notifying the chief judge, and would make vacation leave policies more uniform from one court to another. Under the proposed amendment, a chief judge could require a judge to forego vacation, judicial, or education, or professional leave to ensure docket coordination and coverage.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Supreme Court Clerk in writing or electronically by August 1, 2019, at P.O. Box 30052, Lansing, MI 48909, or [ADMcomment@courts.mi.gov](mailto:ADMcomment@courts.mi.gov). When filing a comment, please refer to ADM File No. 2019-03. Your comments and the comments of others will be posted under the chapter affected by this proposal at [Proposed & Recently Adopted Orders on Admin Matters page](#).

VIVIANO, J., would have declined to publish the proposal for comment.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 3, 2019

A handwritten signature in black ink, appearing to read "Larry S. Royster", written over a horizontal line.

Clerk