



**Hon. Mary Ellen Barbera, Chair**  
Chief Judge  
Court of Appeals

**Hon. Susan Braniecki, Chair**  
Conference of Circuit Court Clerks

**Tamera Chester, Administrative Clerk**  
District Court

**Hon. Kathleen Gallogly Cox, Chair**  
Conference of Circuit Judges

**Hon. Amy J. Craig, Vice- Chair**  
Conference of Circuit Court Clerks

**Hon. JoAnn M. Ellinghaus-Jones**  
Carroll County District Court

**Pamela Harris**  
State Court Administrator

**Hon. Susan H. Hazlett**  
Harford County District Court

**Doug Hofstedt, Vice- Chair**  
Conference of Court Administrators

**Hon. James A. Kenney III, Chair**  
Retired and Recalled Judges  
Committee

**Hon. Laura S. Kiessling, Vice-Chair**  
Conference of Circuit Judges

**Hon. Peter B. Krauser, Chief Judge**  
Court of Special Appeals

**Hon. Karen H. Mason**  
Circuit Court for Prince George's County

**Hon. John P. Morrissey, Chief Judge**  
District Court

**Robert Prender, Administrative Clerk**  
District Court

**Hon. Gerald V. Purnell**  
Worcester County District Court

**Timothy H. Sheridan, Chair**  
Conference of Circuit Court Administrators

**Roberta Warnken, Chief Clerk**  
District Court

**Hon. Alan M. Wilner, Chair**  
Standing Committee on Rules of  
Practice and Procedure

**Hon. Brett Wilson**  
Circuit Court for Dorchester County

**Hon. Eugene Wolfe**  
Montgomery County District Court

**Faye Matthews, Secretary**  
(410) 260-1257

# MARYLAND JUDICIAL COUNCIL

Meeting Location:  
Judiciary College Education and Conference Center  
Upper Level 4 & 5

## MARYLAND JUDICIAL COUNCIL Minutes January 18, 2017

### Judicial Council Members Present:

Hon. Mary Ellen Barbera, Chair	Hon. Eugene Wolfe
Hon. JoAnn Ellinghaus-Jones	Hon. Susan R. Braniecki
Hon. Susan H. Hazlett	Tamera Chester
Hon. James A. Kenney, III	Hon. Amy J. Craig
Hon. Laura S. Kiessling	Pamela Harris
Hon. John P. Morrissey	Douglas Hofstedt
Hon. Gerald V. Purnell	Robert Prender
Hon. Alan M. Wilner	Timothy Sheridan
Hon. Brett W. Wilson	Roberta L. Warnken

### Others Present:

Hon. John W. Debelius, III	Eliana Pangelinan
Hon. Thomas G. Ross	Hon. Wayne A. Robey
Faye Matthews	Jonathan Rosenthal
Hope Gary	Stacey Saunders
Melinda Jensen	Suzanne Schneider
Carol Llewellyn-Jones	Lauren Troxell
Kelley O'Connor	Jamie Walter
Mala Ortiz	Alan Wiener

A meeting of the Judicial Council was held Wednesday, January 18, 2017, at the Judiciary College Education and Conference Center, beginning 9:35 a.m. Chief Judge Barbera began the meeting by welcoming everyone and then called for approval of the minutes of the previous meeting, which were deemed approved as drafted.

## 1. MDEC – Update

Chief Judge Morrissey briefed the Council on the status of the MDEC implementation, noting the most recent implementation took place December 12, 2016, in the trial courts on the Upper Eastern Shore. He commented that with each successive implementation, the number of issues have decreased as the project team incorporates lessons learned and the team's familiarity with the system and its nuances increases. Chief Judge Morrissey thanked everyone involved for rising to the challenge, adding that implementing MDEC requires a team-effort. The next implementation, scheduled for June 2017, will be in the trial courts in Calvert, Charles, and St. Mary's counties. The necessary tasks to ensure a successful implementation already have begun. Those tasks include meeting with court leadership, reviewing consistent court practices with staff, and providing comprehensive training.

## 2. Judicial Qualification Proposal

Judge Kiessling discussed two matters that came before the Conference of Circuit Judges – possible changes to the Election Law Article and changes to the qualifications for appointed or elected circuit court judges, which would require a constitutional amendment.

With respect to changes to the Election Law Article, Section 5-706, Judge Erik Nyce brought to the Conference's attention a loophole that permits a candidate who loses in the primary to file and run in the general election. While one subsection precludes a candidate from doing so, another subsection exempts candidates for a circuit court judge from that preclusion. The Conference agreed that the loophole should be addressed and sought the Council's approval to forward the matter to the Legislative Committee for further consideration. Judge Hazlett moved that the Legislative Committee work with Judge Nyce to determine how best to address the loophole in the statute. Following a second by Chief Judge Morrissey, the motion passed.

The Council then discussed the proposed changes to the minimum qualifications for individuals appointed or elected to the office of circuit court judge. The Conference proposed two additional qualifications, namely that the candidate has to be a member of the Maryland State bar for a minimum of five years and that the candidate has to be in the active practice law for a minimum of 10 years. Judge Kiessling commented that the Conference had considerable discussion about the existing and proposed qualifications, particularly the differences in the requirements for candidates who go through the nominating commission process versus those who go through electoral process. She added that concern was expressed regarding whether the proposed qualifications would be perceived as the Judiciary no longer wanting to end contested judicial elections. Because of that concern, there was one dissenting vote in the Conference regarding the proposal.

Discussion ensued about what constitutes the *active practice of law*. Judge Kiessling noted that the proposed 10-year requirement mirrors the requirement for Attorney General. She added that the time period includes working as a government attorney, an administrative law judge, and serving on the District Court. It was suggested that serving as a magistrate be counted

toward the 10-year requirement, and that consideration be given to the time an attorney practiced in another state. Chief Judge Barbera suggested that the qualifications include language that the attorney is presently in good standing. With respect to the proposed qualification regarding being a member of the Maryland State Bar, Judge Kiessling clarified that the intent was that the candidate be barred in Maryland and not a member of the Maryland State Bar Association.

Following additional discussion, Chief Judge Barbera asked that the matter be taken back to the Conference for additional discussion to address the issues raised by the Council, primarily centered on the active practice of law and how the proposal would be perceived.

### **3. Committee Updates**

*Education Committee.* Judge Hazlett briefed the Council on the work of the Education Committee and the Judicial College, acknowledging the hard work of the Judicial College staff. Amongst the initiatives highlighted was the survey conducted of all judicial clerical staff, after which programs were re-focused to better meet the training needs of staff. In addition, a course catalog was developed, similar to that developed for the judicial education courses. The committee resurrected the New Commissioners' Academy, which will be conducted every year for new commissioners. The committee also moved forward with developing proficiency-based training in four areas, the first being commissioners. The standards for that group have been completed. Additionally, the Commissioner Manual was updated. Another initiative highlighted was the launching of the online professionalism course for new admittees to the Bar, which replaced the onsite course.

The Technology Training department began to transition MDEC training for new judges from the MDEC project team to Judicial College staff. The department also assumed responsibility for e-warrant training, as well as training for other technology applications that have been implemented.

Training needs for magistrates were identified and the onboarding process was standardized. In addition, the committee is exploring the possibility of a one-day statewide educational conference for magistrates, similar to what is done for commissioners. Judge Hazlett will brief the Conference of Circuit Judges on the proposal and will present the same to the Council at its March meeting, after incorporating any feedback from the Conference.

With respect to judicial education, Judge Hazlett reported that 98 percent of the sitting judges met the 12-hour requirement, while 88 percent of the senior judges, 93 percent of the magistrates, and 70 percent of the Orphans' Court judges met their respective requirements. The Judicial College launched the electronic catalogue for courses and participants registered for courses online through Connect. Judge Hazlett stated that the Judicial Education Subcommittee received twenty ideas for new courses for judges, of which the subcommittee selected ten. Those programs will be included in the course offering for the upcoming year. The subcommittee also is planning to have a recognition banquet for the judges and others who volunteer as faculty for judicial education programs. Finally, the committee is exploring how to improve the new trial judges' orientation for greater effectiveness.

Judge Hazlett reported that the Mentoring Program is operational. Work on the mentee orientation webinar is underway and mentor training will be conducted for all mentors in February. Judge Hazlett acknowledged the work of Judge Dorothy Wilson and Stacey Saunders, who created the program, as well as the mentor and mentee manuals. She noted that every judge appointed or elected since September will be appointed a mentor. Judge Hazlett commented that when judges are appointed or elected, as part of the onboarding process, they do a self-assessment to identify any areas of weakness. The information is provided to the respective administrative judge to address as he or she deems appropriate. Judge Hazlett stressed the need for more District Court judges to serve as mentors.

Judge Hazlett stated that in addition to being assigned a mentor, new trial judges are provided the names of subject matter expert judges as an additional resource. Discussion is underway to possibly expand that resource to all judges and correspondence will be sent to judges soliciting their interest in serving in that capacity. Judge Hazlett noted that the Judicial College often gets requests for information similar to what the subject matter expert judges provide. To address that need, to some degree, bench cards will be available at the Judicial College Education and Conference Center as resources that judges will be able to obtain whenever they are there for meetings or education programs.

With respect to the strategic initiatives, Judge Hazlett highlighted a number of accomplishments, including the creation of four performance-based learning workgroups and the plans for two more in 2017; the development of a number of webpages to assist judges, magistrates, and staff to interact with the Judicial College and its programs; the nationwide research on judicial education regarding requirements for continuing legal education, as well as judicial education for new judges; the institution of post-knowledge checks for targeted classes to evaluate the effectiveness of the training; and the availability of public speaking courses. Judge Hazlett thanked Ms. Saunders for her leadership of the Judicial College and the work that has been done, even with limited staff resources.

***Alternative Dispute Resolution Committee.*** Judge Ross briefed the Council on the work of the Alternative Dispute Resolution Committee. He acknowledged the committee's staff, noting that nothing could happen without their hard work. In highlighting some of the accomplishments of the committee, as well as its two subcommittees, Judge Ross stated that the committee will be reviewing the report of the Courthouse Equity Subcommittee in the context of the alternative dispute resolution goals and recommendations. The committee also is reviewing, compiling, and prioritizing ideas for implementing research findings from the ADR Research Symposium. In addition, the committee is forming a workgroup to propose a single set of standards of conduct for mediators. The workgroup will include members of the ADR section of the Maryland State Bar Association, as well as other stakeholders. With respect to the use of alternative dispute resolution in probate cases in the Orphans' Courts, the committee drafted and submitted rules to govern the same to the Rules Committee for consideration.

Judge Ross noted that mediation training continues to be provided to judges, magistrates, and court staff. In addition, training for judges and mediators in the Court of Special Appeals

was completed in collaboration with the Circuit Court for Baltimore City. The Pro Bono Resource Center of Maryland trained attorneys who practice family law. The committee continues to explore alternative ways of providing training.

The District Court Alternative Dispute Resolution Subcommittee is piloting the District Court Case Disposition Information Sheet and is transitioning the rent court mediation program in Baltimore City from pilot to permanent status.

The new Maryland Program for Mediator Excellence website was launched and a new MACRO brochure was developed. The committee also developed best practices for misdemeanor mediation programs.

Chief Judge Barbera noted that she is impressed by the work of both committees, adding that nothing can be accomplished without the work of the staff. She thanked everyone for their hard work.

#### **4. For the Good of the Order**

Chief Judge Barbera acknowledged the outgoing Council members for their service and commitment. Judge Debelius, Wayne Robey, and Carol Llewelyn Jones were presented with plaques as a token of appreciation. Judge Groton and Jennifer Keiser were not able to attend the meeting. Their plaques will be sent to them.

#### **Action Items**

- Judge Kiessling will discuss the Council's feedback regarding the proposed qualification for appointed or elected judges with the Conference of Circuit Judges.

There being no further business, the meeting adjourned at 11:00 a.m. The next meeting is scheduled for March 15, 2017, beginning 9:30 a.m.

Respectfully submitted,



Faye Matthews