



New York State Conference of Mayors and Municipal Officials

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July 27, 2016

John W. McConnell, Esq.
Office of Court Administration
25 Beaver Street, 11th Floor
New York, NY 10004

Re: Proposed Amendment of 22 NYCRR § 17.2 to Require Training and Continuing Education of Clerks of Town and Village Courts

Dear Mr. McConnell:

The Conference of Mayors has reviewed the Office of Court Administration's proposal to require training and continuing education of justice court clerks, opposes its provisions, and recommends against its adoption. This rule would amend 22 NYCRR § 17.2 by adding a new paragraph (f) which would require justice court clerks to complete an annual training and continuing education program established by the Chief Administrator of the Courts.

Undoubtedly, there are numerous benefits to training local governments officials, including court clerks. However, training is costly, requiring local governments to pay not only for travel expenses but also for incidental costs including extra staff time when the court clerk is participating in the training. Unless the State pays for these costs villages would incur as a result of this training requirement, this unfunded mandate would be untenable.

In the Tax Cap era, every unfunded mandate, no matter how seemingly minor, places a heavy burden on local governments and their taxpayers. Municipal resources have been spread so thin that any mandated expense has a significant opportunity cost, requiring local officials to forego providing other services, programs, or improvements for their community. Moreover, the mandated training requirement is likely to have unintended consequences, including but not limited to villages eliminating the position of justice court clerk or dissolving their justice court altogether.

Due to the potential fiscal impacts on local governments operating under the Tax Cap and the uncertainty of how this training requirement will be administered, this rule should not be adopted. For the foregoing reasons, the Conference of Mayors opposes this proposed amendment to 22 NYCRR § 17.2 and recommends that it not be adopted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter A. Baynes'.

Peter A. Baynes
Executive Director



ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK

Serving Towns Since 1933

GERALD K. GEIST
EXECUTIVE DIRECTOR

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July 26, 2016

John W. McConnell, Esq., Counsel
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Re: Comments on proposed regulation 22 NYCRR §17.2 (f) – mandatory justice court clerk training

Each court clerk in a town or village court shall annually complete a training or continuing education program approved by the Chief Administrator of the Courts.

Dear Mr. McConnell:

On behalf of the town officials served by the Association of Towns, we respectfully submit comments on the proposed rule for mandatory justice court clerk training.

Court clerks provide a variety of essential administrative and financial services for town justices, and proper training and technical assistance help court clerks deliver these services more efficiently and competently. While we believe that proper training is essential to professional development and quality of services, we are concerned about the cost to local taxpayers to fund mandatory training. Significant voluntary training opportunities are already in place for court clerks to better serve the town court, town justice and users of the court, and court clerks are already taking advantage of these plentiful training opportunities, suggesting they are receiving the training this regulation attempts to make mandatory.

Town boards have the authority to create the position of court clerk (Uniform Justice Court Act, §109) and the power to appoint court clerks upon the advice and consent of the town justice(s) served by the court clerk (Town Law, §20). The salary, benefits, office supplies, facilities, training and materials required for the office of court clerk are primarily funded by real property taxpayers. Moreover, towns are statutorily responsible to fund training and all of the reasonable expenses associated with said training (General Municipal Law, §77-b). It is, however, difficult to evaluate the cost of this regulation because the regulation does not provide any specific information regarding how many hours of annual training will be required or where such training will take place. Moreover, this regulation does not address possible cost-saving measures – such as exempting seasoned court clerks from mandated training or allowing training requirements to be satisfied by low-cost

methods such as online or through self-study course work. Mandated annual training will impose an additional expense upon town taxpayers, which towns may have difficulty funding.

In addition, this regulation does not address whether a town justice, who does not have a court clerk and therefore essentially serves as his or her own court clerk, will be required to attend court clerk training in addition to mandatory justice training (Uniform Justice Court Act §2101(f); Op. Atty. Gen. (Inf.) No. 94-29). The Uniform Justice Court Act §105(b) specifically requires towns to fund training and education expenses for town justices. Funding duplicative training for justices required to complete court clerk training is an expense local taxpayers do not have the resources to fund.

Towns are now subject to a real property tax cap and have limited resources to generate additional revenue to fund new mandates. Consequently, while we support and indeed offer training for justices and court clerks, we remain concerned about the cost to the local taxpayers to fund any new unfunded mandates, including mandatory training. We, therefore, recommend that training for court clerks remain voluntary.

Respectfully submitted,

/s/ Gerald K. Geist

Gerald K. Geist
Executive Director



New York State Association of Magistrates Court Clerks, Inc.

July 29, 2016

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John W. McConnell, Esq., Counsel
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Re: Comments on proposed regulation 22 NYCRR §17.2 (f) – Mandatory Justice Court Clerk Training

Dear Mr. McConnell:

On behalf of the New York State Association of Magistrates Court Clerks Inc., we respectfully submit the following comments on the proposed rule for mandatory training for Justice Court Clerks.

Some time ago the State Magistrates and Court Clerks united our Associations in a joint committee to address the topic and concerns surrounding mandatory training for court clerks. After many meetings, as well as a state wide survey, we formulated a draft of proposed legislative language.

After much discussion and debate on the issue, our survey was created and released. In total, 1330 clerks and justices responded to our survey and an overwhelming 85% agree that mandatory training for court clerks is necessary. That being said, there are obstacles which contribute to the reason why so many are not currently attending training. The most important reason, or obstacle, why many said they do not currently attend training turned out to be the driving force behind our survey. Specifically, the clerks do not attend training because it is not mandatory and the municipalities will not reimburse or assist with the cost of training because it is not in fact mandatory, as it is for the Justices. In essence, the cause is the effect.

We are not naïve to the fact that there are obstacles that municipalities will face when training becomes mandatory for court clerks. That being said, the reality is that court clerks deal, day in and day out, with people's lives. Justice Courts deal with public monies and people's freedom. Not knowing the correct procedures to do the job can have serious consequences on the lives of the people we provide service to, as well as the Justices and municipalities we serve. A well trained court clerk is an asset to not only the Justice, but the community in which they serve.

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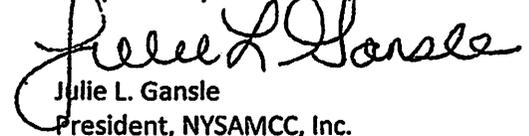
It does not matter the size of the court, or the amount of revenue they generate, at the end of the day, we all must follow the same procedures and requirements which govern the justice courts. If a clerk makes a mistake when reporting a criminal case, it will impact that defendant's life. Background checks are being done on a routine basis for just about everything in today's society, whether it's for their career or ability to adopt/foster a child, one mistake could have devastating consequence. Knowing what impact this could have, it is astonishing that there are no rules, regulations or mandated training required to do this job. Clerks need to be equipped with the proper knowledge and tools to do their job both efficiently and effectively. Too many clerks have taken on the position and been faced with cleaning up the issues and left by an untrained clerk that had been there for years. By mandating training we are taking steps to insure that clerks will have the tools and knowledge they need.

What we propose is not unreasonable. Mandatory training for court clerks does not have to cost the State, or the already financially strapped, municipalities a fortune. As it is now, training would be available in many ways including online, at conferences and at local and district trainings. We propose that clerks be required to complete six (6) hours a year, which would include one (1) fiscal credit every year. The six hours could be attained in one day, keeping the cost down for the municipalities. For those clerks who simply can't leave the office or have full time jobs, in addition to their clerk position, could attend through online version of training. By having the requirement that each clerk attend one fiscal class annually, our hope is to minimize the amount of fiscal mistakes, highlighted by the Office of the State Comptrollers in many of their Justice Court audits.

The town and village courts are the back bone of our Justice System and are routinely referred to as the "Courts closest to the People". The court clerk position is a professional one which continues to become more complex. Laws and procedures are constantly changing and clerks want to be educated. Most professionals in a position of continued change are already required to obtain continuing education. We know implementing this mandate is going to be a challenge, but it is a mandate that both the NYSMA and the NYSAMCC's feel passionately about. We look forward to working in conjunction with OJCS to continue making sure that our education program remains at the top of its profession. We also want to make sure that every court clerk has access to the training they need and deserve.

On behalf of our Association, we recommend that training for court clerks become mandatory.

Respectfully submitted,


Julie L. Gansle
President, NYSAMCC, Inc.

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NEW YORK STATE MAGISTRATES ASSOCIATION

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August 1, 2016

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Town Justice, Herkimer

HON. JONAH TRIEBWASSER
Town & Village Justice, Red Hook

RE: Proposed Regulation 22 NYCRR §17.2 (f) – Mandatory Justice Court Clerk Training

Treasurer

HON. JOHN P. TEIXEIRA
Town Justice, Niagara

Dear Mr. McConnell:

Executive Director

HON. TANJA SIRAGO
Town Justice, Cairo

On behalf of the New York State Magistrates Association (NYSMA), the following comments are being respectfully submitted in favor of the proposed regulation for mandatory justice court clerk training. During the term of then NYSMA President, Hon. Dennis G. Quinn, members of NYSMA met with the Hon. Michael Cocomma, Deputy Chief Administrative Judge. At Judge Cocomma's request, a joint task force was created along with the New York State Association of Court Clerks (NYSAMCC). Task force members from both organizations met several times, reached out to both memberships with a statewide survey, and based on the survey results, created a draft proposal of language in full support of the mandatory court clerk training.

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The court clerks of the town and village courts handle millions of cases each year, which involve the accurate receiving and recording of millions of dollars in court related fines, surcharges, and various fees. Besides the crucial skill of accurate recordkeeping, there are a myriad of other mandatory tasks performed by the court clerks that are necessary to enable the most efficient and effective processing of the individuals through the court system who rely on fair justice. Although it is the justice who is ultimately responsible for all the work performed by the clerk, it is imperative to have consistently educated, knowledgeable court clerks who will receive mandated education and training similar to the training requirements that are an integral part of the training of justices.

The town and village courts are the courts closest to the people. Many times, the town or village court is the one and only interaction an individual may have with the justice system. The clerks are sometimes the first person the public speaks to when inquiring about a case, court procedure, and/or requirements for filing civil matters. Their basic

Immediate Past President

HON. DENNIS G. QUINN
Town Justice, Champion

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Town Justice, Shelby

HON. BARBARA SEELBACH
Town Justice, Clinton

instructions to the public must be consistent throughout the state to instill public confidence and avoid confusion. The defendant's life may be negatively impacted when procedural or administrative steps have not been processed correctly. Many small rural town and village courts struggle to provide any training to the court clerks prior to taking on this extraordinary role of responsibility. Mandating training and providing varying means to obtain the training including online access, may make a significant difference in the skillset level of the invaluable town and village court clerks.

The justices, along with the court clerks understand that this mandatory training will take time. The joint committees have already begun the process of fine tuning the necessary hours of training it will take to create qualified individuals who will be equipped with the proper tools to take on such a position. Within the judicial system, there is constant change with laws and procedures. NYSMA believes the best way to guarantee each and every court clerk has been advised of those changing laws and procedures is by mandating uniform, mandatory training for court clerks.

NYSMA urges the passing of mandatory court clerk training to help ensure the courts can provide qualified clerks to keep up with the pace of the workload of the courts. Moreover, to fulfill the duties that are vital to the judicial system, in providing substantial, timely, and equal justice. On behalf of the members of our Association, NYSMA recommends mandatory training of court clerks.

Respectfully submitted,

Hon. Tanja Sirago
Executive Director

Immediate Past President

HON. DENNIS G. QUINN
Town Justice, Champion

Nassau County Magistrates Association, Inc.

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Dear Counsel McConnell:

The Nassau County Magistrates Association has members representing 63 villages in Nassau County. This Association is the recognized sponsor of the mandatory Magistrate CJE for Nassau County Village Justices. OCA has invited public comment on the proposed amendment to 22 NYCRR §17.2, to require annual training and/or continuing education for Court Clerks, as is required of Village Justices.

In response, please be advised that the Nassau County Magistrates Association strongly supports this proposed amendment. We do, however, seek one addition. Specifically, that UJCA §105 also be amended to include this mandatory continuing education for Court Clerks, so that there be no tuition, and that actual and necessary expenses incurred by the Clerks in meeting the training mandate be charged to the municipalities. This language requiring the municipality to absorb such expenses is the present law for Village Justices, and the same should be required on behalf of the Village Court Clerks.

As the Commission on Judicial Conduct recognizes, we must keep the Clerks current and trained in methods of

bookkeeping and the handling of Court funds, thereby safeguarding the latter, and thus reducing the sanctions to Justices who are ultimately responsible for these monies, timely reports, and the like.

Parenthetically, if this amendment is adopted, please consider the following suggestions to effectively achieve your educational goals for the Clerks:

- Make the training and funding thereof available to part-time Clerks, as well as full-time Clerks. Many Village Court Clerks wear multiple hats in the course of their municipal employment.
- Make the training and continuing education sessions available at various locations throughout the year.
- Make the training and continuing education available as simulcasts and webinars, for maximum reach to broad audiences within the state.
- Require that current Court Clerks, in addition to new Clerks, take the initial training as well as subsequent continuing education.
- Ensure that programs given by the New York State Comptroller qualify to fulfill the continuing education requirement where relevant.
- Promulgate specific procedures to verify the Clerks' attendance and certification.

We, the officers, directors and members of the Nassau County Magistrates Association, are confident that all of the above will enhance the administration of justice in our Village Courts, and serve the public well.

Respectfully Yours,

A handwritten signature in black ink that reads "Susan Katz Richman". The signature is written in a cursive style with a large, sweeping initial "S".

Susan Katz Richman, President

Holly Nelson Lütz

From: Cynthia Kouril [REDACTED]
Sent: Friday, May 27, 2016 1:29 PM
To: rulecomments
Subject: Amendment to rule 17

Follow Up Flag: Follow up
Flag Status: Flagged

Yes, update training of clerks yearly!