

IN THE SUPREME COURT OF ALABAMA
November 18, 2013

ORDER

WHEREAS, on June 24, 2010, this Court issued an order adopting Rules for Mandatory Continuing Judicial Education effective January 1, 2011, mandating judicial education for appellate, circuit, and district court judges, municipal court judges, circuit and district clerks, employees of the Unified Judicial System, and municipal magistrates and clerks in Alabama; and

WHEREAS, on November 18, 2010, this Court amended the Rules for Mandatory Continuing Judicial Education, effective January 1, 2011, to add Rule VII, mandating continuing judicial education for probate judges in Alabama; and

WHEREAS, each Chief Justice, pursuant to § 12-1-18, Ala. Code 1975, must weigh the cost, availability, need, and other considerations of ordering such judicial education; and

WHEREAS, the Chief Justice under § 12-1-18(a) and (b), Ala. Code 1975, has the authority to order attendance at conferences, seminars, colleges, institutes, and other educational venues by circuit and district court judges, circuit clerks, judicial assistants, court specialists, juvenile probation officers, court reporters, or any other group within the court system at his or her discretion and in his or her judgment; and

WHEREAS, this Court recognizes that continuing judicial education is desirable to ensure that critical information, legal updates, advancements in technology, and other important issues are shared with all officials and employees of the Alabama Unified Judicial System; and

WHEREAS, nonattendance at such conferences, seminars, colleges, institutes, etc., may be considered a neglect of official duties unless excused in advance by the Administrative Director of Courts, the Court Administrator, or the Chief Justice; and

WHEREAS, before the adoption of the Rules for Mandatory Continuing Judicial Education, the Alabama Judicial College for many years had provided a voluntary judicial-education program that was well attended and enjoyed by all officials and employees of the Alabama Unified Judicial System; and

WHEREAS, the probate judges, the municipal court judges, and the municipal magistrates and clerks have all expressed a desire to continue the mandatory continuing judicial-education rules;

IT IS THEREFORE ORDERED that the Rules for Mandatory Continuing Judicial Education adopted June 24, 2010, and amended November 18, 2010, and effective January 1, 2011, are hereby repealed, and a voluntary program of continuing judicial education is reestablished for appellate court judges and justices, circuit and district court judges, circuit and district clerks, and employees of the Alabama Unified Judicial System. The voluntary judicial-education program shall be administered in accordance with the "Rule for Administration of Voluntary Judicial Education," which is adopted to read in accordance with Appendix A to this order;

IT IS FURTHER ORDERED that the Rules for Mandatory Continuing Judicial Education for Municipal Court Judges, Municipal Magistrates/Clerks, and Probate Judges are adopted to read in accordance with Appendix B to this order;

IT IS FURTHER ORDERED that the adoption of these Rules is effective immediately; and

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow these Rules:

"Note from the reporter of decisions: The order adopting Rules for Mandatory Continuing Judicial Education for Municipal Court Judges, Municipal Magistrates/Clerks, and Probate Judges, effective November 18, 2013, is published in that volume of the Alabama Reporter that contains Alabama cases from __ So. 3d."

Moore, C.J., and Stuart, Bolin, Parker, Murdock, Main, Wise, and Bryan, JJ., concur.

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 18 day of November, 2013

Julia Jordan Weller
Clerk, Supreme Court of Alabama

APPENDIX A

RULE FOR ADMINISTRATION OF VOLUNTARY JUDICIAL EDUCATION

Administration of a policy of judicial education shall be the responsibility of the Chief Justice of the Alabama Supreme Court as chief administrative official of the Alabama Unified Judicial System.

(a) The Administrative Director of Courts ("the ADC") shall administer, through the Alabama Judicial College ("the AJC"), the program of continuing judicial education for all official and employee groups and individuals who compose the Unified Judicial System and who are not subject to mandatory continuing judicial education. The ADC may establish rules and regulations or modify existing rules and regulations relating to the voluntary judicial-education program, but all such rules and regulations are subject to approval by the Alabama Supreme Court.

(b) The director of the AJC, under the supervision of the ADC, shall determine all issues of schedule, content, and compatibility of judicial-education matters under the direction of the ADC and the Chief Justice.

(c) The ADC shall submit proposed policies, standards, guidelines, and procedures applicable to all judicial-education programs or activities to the Alabama Supreme Court at the request of the Court.

(d) The ADC, through the director of the AJC and the finance director of the Administrative Office of Courts, shall be responsible for all financial matters dealing with the judicial-education program, including, but not limited to, all procurement of funding, determining charges for attendees, contracting, receipting of funds, disbursing payments, and the

reporting of financial information. The Alabama Judicial College Education Fund has been established to facilitate all financial matters.

(e) The Alabama Judicial College Faculty Association, as currently composed or as may be composed in the future, shall serve in an advisory capacity to the Chief Justice and the ADC regarding policies, standards, guidelines, and procedures of the judicial-education program.

APPENDIX B

RULES FOR MANDATORY CONTINUING JUDICIAL EDUCATION FOR MUNICIPAL COURT JUDGES, MUNICIPAL MAGISTRATES/CLERKS, AND PROBATE JUDGES

RULE I. GENERAL PROVISIONS

RULE 1. ORGANIZATION AND ADMINISTRATION. Administration of a policy of judicial education shall be the responsibility of the Chief Justice of the Alabama Supreme Court as Chief Administrative Official of the Alabama Judicial System.

(a) The Administrative Director of Courts ("the ADC") shall administer, through the Alabama Judicial College ("the AJC"), the program of continuing judicial education for all officials who are subject to these Rules. The ADC may establish rules and regulations or modify existing rules and regulations relating to the judicial-education program, but all such rules and regulations are subject to approval by the Alabama Supreme Court.

(b) The director of the AJC, under the supervision of the ADC, shall determine all issues of schedule, content, and compatibility of judicial-education matters under the direction of the ADC and the Chief Justice.

(c) The ADC shall submit proposed policies, standards, guidelines, and procedures applicable to all judicial-education programs or activities to the Alabama Supreme Court at the request of the Court.

(d) The ADC, through the director of the AJC and the finance director of the Administrative Office of Courts, shall be responsible for all financial matters dealing with the judicial-education program, including, but not limited to, all procurement of funding, determining charges for attendees, contracting, receipting of funds, disbursing payments, and the

reporting of financial information. The Alabama Judicial College Education Fund has been established to facilitate all financial matters.

(e) The Alabama Judicial College Faculty Association, as currently composed or as may be composed in the future, shall serve in an advisory capacity to the Chief Justice and the ADC regarding policies, standards, guidelines, and procedures of the judicial-education program.

RULE 2. ANNUAL REPORTING. The annual reporting period for compliance with these Rules is a period of one year, with the first period beginning on the first day of January after an individual becomes an employee of the judicial system and continuing until the last day of December of each year.

RULE 3. COMPUTATION OF JUDICIAL-EDUCATION CREDIT. Credit for approved programs shall be awarded on the basis of one credit for each hour actually spent in attendance at approved or accredited judicial-system-education activities. Partial credit can be earned in one-tenth hour increments. The number of credit hours shall include only instructional hours and will not include credit for introductory remarks, meal breaks, or business meetings.

RULE 4. DEFINED TERMS. Terms defined in this Rule I or in any of the following rules shall have the same meaning in all rules.

RULE II. ALABAMA MUNICIPAL COURT JUDGES

RULE 1. REQUIRED CONTINUING JUDICIAL EDUCATION.

(a) All municipal court judges shall complete a minimum of six hours of approved continuing judicial education (including one hour of judicial ethics) specifically relating to municipal court practice and procedure per calendar year.

(b) Municipal court judges must complete the six-hour mandatory judicial-education requirements within the first full year of their appointment to the office.

(c) Judicial-education credits for each municipal court judge shall be reported in writing to the AJC director by December 31 annually.

RULE 2. REQUIREMENTS FOR PROGRAM OR COURSE APPROVAL.

(a) The primary objective of judicial education for municipal court judges is to increase the professional competence of such judges in the particular areas of law applicable to municipal court proceedings and to assist these judges in increasing the quality of municipal court adjudication. For the purposes of mandatory judicial-education credits for municipal court judges, credits will be granted for a particular activity if the AJC director determines that the activity:

(1) Is an organized program of learning, including one or more lectures, workshops, presentations, courses, or symposiums that are designed to contribute to the professional competency of municipal court judges;

(2) Relates to the administration of justice in municipal courts, the professional or ethical obligations of municipal court judges, the substantive or procedural law applicable to municipal courts, or any of the following:

(i) Jurisdiction of the municipal courts;

(ii) Recent court decisions affecting municipal courts;

(iii) Legislation affecting municipal courts;

(iv) Attorney General opinions affecting municipal courts;

(v) Judicial Advisory Commission opinions affecting municipal court judges in the area of judicial ethics and potential conflicts of interest;

(vi) Judgment and sentencing;

(vii) Rights of the accused;

(viii) Trial procedure;

(ix) Domestic violence;

(x) Driving under the influence;

(xi) Citizens' complaints;

(xii) Special relationship between municipal court judges, city attorneys, city councils, mayors, city law enforcement, city magistrates, and court clerks;

(3) Is conducted or taught by persons who have appropriate academic or practical skills necessary to conduct the course effectively and who have special education, training, or experience in the matters being taught; and

(4) Is accompanied by the distribution to the attendees of written materials that address the administration of justice, the substantive law of the state, or the professional or ethical obligations of judges, and the quality and quantity of which materials indicate that adequate time and care have been devoted to their preparation and that these materials will be of value to the attendees in performing their judicial duties.

(b) Sponsors of a course, program, or other judicial-education activity sought to be approved for judicial-education credit shall apply for such approval both to the AJC director and to the Alabama State Bar ("the Bar") before the event.

Applications to the AJC director must be submitted in writing and accompanied by an application fee of \$250 payable to the AJC at least 60 days prior to the course, program, or activity. Such applications must include a brief summary of the course, program, or activity; its dates, subjects, and instructors and their qualifications; and a copy of the outline, brochure, or other documentation.

Sponsors of courses, programs, or activities approved by the AJC director for judicial-education credit shall pay to the AJC an administrative-expense fee of \$25 for each judge attending an approved course, program, or activity. This fee must be paid to the AJC before the judicial-education hours will be credited to the attendee.

Applications to the Bar must meet the requirements of the Bar.

(c) During all programs and courses, including those presented by teleconference, there must be an opportunity to ask questions of the course faculty. If a faculty member is not available either in person or by telephone, then a qualified commentator must be available to offer comments and to answer questions directly, in writing, or by e-mail.

RULE 3. CREDITS FOR PARTICIPATION.

(a) Upon application, the AJC director may award municipal court judges no more than four additional credits annually for the following:

- (1) Teaching an AJC-approved program;

(2) Serving as a faculty member at any approved program;

(3) Published judicial writing; and

(4) Written materials that are distributed at an approved judicial-education program.

(b) Questions regarding the appropriateness of awarding judicial-education credit for attendance at a judicial-education program not sponsored by the AJC shall be submitted to and resolved by the AJC director. Examples of programs that would not qualify for credit are:

(1) Continuing professional-education courses that do not relate directly to municipal court practice and procedures;

(2) Teaching a course not related to judicial officials or employees;

(3) Jury duty; and

(4) Serving on professional committees or associations.

(c) Municipal court judges subject to these Rules shall report their attendance and participation in judicial-education programs on an AJC course form that has been approved by the ADC.

RULE 4. SANCTION FOR FAILURE TO COMPLY WITH MANDATORY CONTINUING JUDICIAL-EDUCATION RULES.

(a) Municipal court judges governed by these Rules shall report participation in judicial-education programs on an AJC course form that has been approved by the ADC. In the event that a municipal court judge fails to comply with these Rules,

the AJC director will promptly notify the ADC, the municipal court judge, and the mayor or other equivalent executive official of the municipality of the noncompliance by sending a notice thereof to their principal offices. The statement of noncompliance shall advise the judge and the mayor or municipal official that within 30 days a plan to correct the noncompliance must be submitted to the AJC director for consideration and approval. Should a municipal court judge fail to correct the noncompliance within a period approved by the AJC director, the AJC director shall make the fact of the noncompliance open for public view and inspection.

(b) Municipal court judges' education files and records, maintained by the AJC, shall be confidential and shall not be disclosed except as provided in subsection (a) of this rule or upon the request of the judge affected.

(c) A municipal court judge's submission of a false, inaccurate, or erroneous report of judicial-education credits and the failure to promptly correct such a report after written notice shall constitute noncompliance with these Rules and shall be subject to the sanction provided for in subsection (a) of this rule.

RULE 5. FUNDING.

The cost of meeting the mandatory judicial-education requirements established in these Rules for municipal court judges shall be the responsibility of the municipality employing the municipal court judges. Municipal courts may apply to the ADC for a waiver in the event funds are not available to comply with these Rules. Waivers must be submitted and approved by December 31 annually for the following year.

RULE III. MUNICIPAL MAGISTRATES/CLERKS

RULE 1. REQUIRED CONTINUING JUDICIAL EDUCATION.

Each municipal court magistrate/clerk shall complete and remain in compliance with the Alabama Municipal Court Clerks and Magistrates Certification Program as set out in Rule 18 of the Alabama Rules of Judicial Administration.

RULE 2. SANCTIONS.

In the event a municipal court magistrate/clerk fails to comply with Rule 18.I.(B)(3) and (4) of the Alabama Rules of Judicial Administration, the AJC director shall promptly notify the magistrate/clerk, the municipal court judge, and the mayor or other equivalent executive official of the municipality of the noncompliance by sending a notice thereof to their principal offices. A statement of noncompliance shall advise the magistrate/clerk that within 30 days a plan to correct the noncompliance must be submitted to the AJC director for consideration and approval. Should a magistrate/clerk fail to correct the noncompliance within the approved period, the AJC director shall report the noncompliance to the ADC for sanctions and possible rescinding of magistrate status.

RULE 3. FUNDING.

The cost associated with fulfilling the mandatory judicial requirements as set out by these Rules shall be the responsibility of the municipality for the individual municipal court clerks and magistrates. Municipal courts may apply to the ADC for a waiver in the event that funds are not available to comply with this rule. Waivers must be submitted and approved by December 31 annually for the following year.

RULE IV. PROBATE JUDGES

RULE 1. ORGANIZATION AND ADMINISTRATION. Notwithstanding anything in Rule I, General Provisions, to the contrary, at the request of the Alabama Probate Judges Association ("the APJA"), the Alabama Law Institute ("the ALI") agrees to administer the program of mandatory continuing judicial education in conjunction with the APJA. The ALI shall establish policies and procedures for the implementation of the minimum judicial-education requirements established herein. These policies and procedures shall apply to all elected and appointed probate judges in the State of Alabama.

(a) The ALI director shall serve as administrator of the judicial-education program for probate judges.

(b) The ALI and the APJA shall monitor and evaluate the quality of education programs and make changes when appropriate within the approved guidelines for attendance and accreditation.

RULE 2. REQUIRED CONTINUING JUDICIAL EDUCATION.

(a) All Alabama probate judges shall attend a designated orientation program for new probate judges of at least 6 hours during their first 12 months in office.

(b) All probate judges shall, after their first year in office, earn a minimum of 12 approved judicial-education credits in each calendar year. Judicial-education credits shall be earned by attending conferences or courses approved by or offered through the ALI, the APJA, and the National Probate Judges Association ("the NPJA"). Each calendar year, all probate judges must earn a minimum of six judicial-education credits at courses offered by the ALI.

(c) When a probate judge earns more than 12 judicial-education credits in a year, a maximum of 8 of those credits

may be carried forward and applied toward that probate judge's judicial-education requirements for the following year.

(d) The executive committee of the APJA may grant extensions of time to complete judicial-education requirements for good cause shown. A letter requesting such an extension must be submitted to the president of the APJA with a corrective-action plan to make up the deficient credits within 30 days following the end of the calendar year for which an extension is sought.

RULE 3. REQUIREMENTS FOR PROGRAM OR COURSE APPROVAL.

(a) Courses conducted by the ALI, the APJA, or the NPJA are approved for judicial credit.

The education course, program, or activity must be:

(1) An organized program of learning, including one or more lectures, workshops, presentations, courses, or symposiums that are designed to contribute to the professional competency of probate judicial officials;

(2) Related to the administration of justice, the substantive or procedural law of this state, the administrative functions and/or duties of probate judges, or the professional or ethical obligations of probate judges;

(3) Conducted or taught by persons who have appropriate academic or practical skills necessary to conduct the course effectively and who have special education, training, or experience in the matters being taught; and

(4) Accompanied by the distribution to the attendees of written materials that address the administration of justice, the substantive or procedural law of this

state, or the professional or ethical obligations of probate judges, the quality and quantity of which materials indicate that adequate time and care has been devoted to their preparation and that these materials will be of value to the attendees in performing their duties as probate judges.

RULE 4. CREDITS FOR PARTICIPATION.

(a) Probate judges are exempt from fulfilling the mandatory continuing judicial-education requirement until the end of their first full calendar year of employment. However, an orientation program for new probate judges must be completed by all new probate judges within their first calendar year in office.

(b) Upon application, the ALI may award no more than eight credits annually to a judge for serving as a faculty member at any approved program. Each teaching hour is equal to three credits.

RULE 5. SANCTION FOR FAILURE TO COMPLY WITH MANDATORY CONTINUING JUDICIAL-EDUCATION RULES.

(a) Probate judges shall report their attendance and participation in judicial-education programs on an ALI course form that has been approved by the ALI.

(b) In the event a probate judge fails to comply with these Rules, the ALI director shall notify the probate judge of the noncompliance by sending a notice thereof to the probate judge at his or her principal office with a copy to the president of the APJA. The statement of noncompliance shall advise the probate judge that within 30 days he or she must submit a plan to correct the noncompliance to the president of the APJA for consideration and approval by the executive committee of the APJA. If a probate judge fails to comply with these Rules and fails to correct the noncompliance

within the approved period, the sanction for such noncompliance with these Rules shall be for the ALI to report the noncompliance to the president of the APJA for notification to the APJA and to make the fact of the noncompliance open for public view and inspection.

(c) Probate judges' education files and records maintained by the ALI shall be confidential and shall not be disclosed except in compliance with this rule or upon the request of the affected probate judge.