ADMINISTRATIVE DIRECTIVE NO. 171 (Third Revision)

This 31st day of October 2013:

IT APPEARS THAT:

1. Administrative Directive No. 171 on February 24, 2009 adopted a revised version of the Judicial Branch Personnel Rules governing all non-judicial, non-Merit Judicial Branch employees in all courts and agencies, the Administrative Office of the Courts and the Arms of the Supreme Court, effective April 1, 2009.

2. Pursuant to the Supreme Court's finding in *Superior Court v. State of Delaware Public Employment Relations Board*, Del. Supr., No. 518, 2009, Berger, J. (Jan. 19, 2010)(finding that the Public Employment Relations Board had violated the constitutional doctrine of separation of powers by certifying a union for Superior Court employees), Administrative Directive No. 171 (Revised) was issued on April 28, 2010, amending Rule 1.4 of the Judicial Branch Personnel Rules and adding a new Chapter 20 containing Employment Relations Rules for non-judicial, non-merit[1] Judicial Branch employees and an Appendix B containing Employment Relations Procedures for these employees, as well as related forms.

3. To ensure consistent practices within the Judicial Branch and with the Executive Branch's Merit Rules, Administrative Directive No. 171 (Second Revision) was issued on March 11, 2013, adding new Section 5.3.6.8 on the usage of sick leave for regular blood bank donation.

4. The Gender Identity Nondiscrimination Act of 2013, which was enacted on June 19, 2013, amended the Delaware Code relating to hate crimes and discrimination in employment, public works contracting, housing, equal accommodations, and the insurance business on the basis of "gender identity." The law requires that it shall be an unlawful employment practice for an employer to discriminate against any individual with respect to "gender identity."

5. The Judicial Branch Personnel Rules should be amended to ensure compliance with the Gender Identity Nondiscrimination Act of 2013.

NOW THEREFORE, IT IS DIRECTED, with the unanimous approval of the Justices of the Supreme Court (Del. Const., Art. IV, § 13), that:

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[1] Although the rules adopted on April 28, 2010 applied only to non-judicial, non-merit employees, the Supreme Court may, in the future, exercise its authority pursuant to Art. IV, § 13 of the Delaware Constitution, to provide for a uniform system of employment relations for all non-judicial Judicial Branch employees.

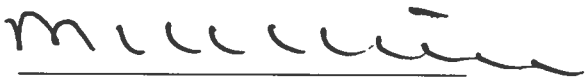
A. Judicial Branch Personnel Rules adopted in Administrative Directive 171 (Second Revision) shall be amended to include "gender identity" within Chapter 2, Non-Discrimination.

B. The State Court Administrator is directed, with the approval of the Chief Justice, to implement non-controversial and/or minor changes to the Judicial Branch Personnel Rules in the future. Further revision of this Administrative Directive is not required to implement such changes. Any changes to the Judicial Branch Personnel Rules will be reflected in the Rules incorporated with this Administrative Directive and the date of the amendments noted.

C. This amendment to the Judicial Branch Personnel Rules will become effective immediately.

D. Presiding judges/agency heads shall ensure that these Rules are disseminated to affected employees in their courts/agencies.

BY THE COURT:



Chief Justice Myron T. Steele

c: The Honorable Jack A. Markell
The Honorable Randy J. Holland
The Honorable Carolyn Berger
The Honorable Jack B. Jacobs
The Honorable Henry duPont Ridgely
Members of the Judicial Conference
The Honorable Joseph R. Biden, III
The Honorable Brendan O'Neill
State Court Administrator
Court Administrators
Clerk of the Supreme Court
Counsel to the Governor
Chair Senate Judiciary Committee
Chair House Judiciary Committee