



NACM AWARDED THE EIGHTH ANNUAL HOWELL HEFLIN AWARD

On Thursday, November 20, 2003, the board of directors of the State Justice Institute awarded the eighth annual Howell Heflin Award to the National Association for Court Management for its Core Competency Guidelines project. Dr. Geoff Gallas



NACM president Larry Myers, Geoff Gallas, and Frank Broccolina accept the Howell Heflin Award for the Core Competency Guidelines project.

of Aequitas and Frank Broccolina, Maryland state court administrator, accepted the award on behalf of NACM at the William H. Rehnquist Reception and Dinner held at the U.S. Supreme Court.

The award is given in recognition of an innovative SJI-supported project that has a high likelihood of significantly improving the quality of justice in state courts across the nation. The Core Competency Guidelines project, supported by four SJI grants over a span of five years, defines court management as a profession that requires specific skills, knowledge, and abilities. Gallas and Broccolina facilitated this ambitious project, which included the participation of many NACM members and academic partners who produced the quality and timely guidelines.

More than 20 state and national judicial branch educators have already incorporated the Guidelines into their curricula. For more information about the Guidelines, please visit the NACM Web site at http://www/mac.met/prg/org/CCCG/cccg_homepage.htm and read the article in this edition of *Court Communique*. ♦

A Word From Your Editor:

Opportunity is in the air; can you feel it? I'm sure each of you is facing many challenges and opportunities each day. Budget challenges, workforce challenges, succession challenges. As the future leaders for the administration of courts, we must be ready to meet these challenges mentally, physically, and enthusiastically. As a leader, are you ready to meet the challenge?

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CORE COMPETENCY CURRICULUM GUIDELINES COMPLETED

By **Geoff Gallas** and **Alan Carlson**

In 1990, a NACM working group was selected that started NACM on an odyssey whose ultimate destination even they could not then fully appreciate. Their initial focus was on improving annual conferences and other services. A survey of NACM members led to an agenda of providing a systematic and reliable definition of the needed competencies of court managers. The competencies would be used as an integral part of the mid-year and annual NACM conferences.

Follow up surveys including substantial work carried out for NACM by John Hudzik of the Michigan State University-based Judicial Education Reference, Information, Technical Transfer (JERITT) project were very important. These surveys led to an SJI concept paper and formal application prepared for NACM by Barry Mahoney, then president of the Justice Management Institute. SJI funded the proposed project (*Professional Development for Court Managers: Educational Curriculum for the 21st Century*) in 1996.

Following receipt of the first of three SJI grants¹, the NACM Professional Development Advisory Committee (NACM/PDAC) was formed to oversee the project. NACM/PDAC held its first meeting in November 1996. NACM/PDAC's work culminated this past summer with a *Court Manager* special issue that presented the 10 NACM Core Competency Curriculum Guidelines in one volume. A 13-year journey already has strengthened NACM's educational programs and the programs of others throughout the United States and the world.

The Guidelines are a comprehensive consensus statement of the core court leader responsibilities and competencies, which articulate the knowledge, skills, and abilities (KSAs) required by court leaders and court executive leadership teams. The current KSAs grew from a series of surveys beginning in 1990. In an iterative process, the KSAs were grouped in up to 14 competency categories. Eventually they were reshaped, expanded substantively but reduced in number, and then streamlined into 10 distinct but interrelated Core Competency Curriculum Guidelines: What Court Leaders Need to Know and Be Able to Do.

The Core Competencies are not the work product of one person or even a small and multi-disciplinary NACM committee, but rather they form a consensus statement informed by the worldwide judicial administration community and court management profession. In keeping with principles the competencies promote, this cooperative and collaborative effort involved a significant number of NACM members, state court administrators and their senior staff, academics, judicial branch educators, researchers, technical experts, and judges with administrative responsibilities and experience, among others from state and federal courts of all sizes and jurisdictions throughout the United States and abroad.

Using SJI and BJA funding, NACM/PDAC identified and engaged experts in each of the 10 competency areas. Drawing from the Hudzik JERITT work product and other sources, these experts drafted a preliminary Guideline. After review of the first draft by NACM/PDAC and needed revision(s), a subsequent draft of the first three Guidelines that were developed (Caseflow Management; Resources, Budget, and Finance; and Visioning and Strategic Planning) was circulated for comment to every member of NACM and the Conference of State Court Administrators (COSCA). NACM/PDAC approved first drafts of the other seven Guidelines that were sent to 250 carefully selected reviewers. Assisted by literally hundreds of practitioners and experts, NACM/PDAC, its project director, and the primary authors then produced a new draft,

¹ In late 2001 the Bureau of Justice Assistance picked up funding of the project.

or drafts, and the Guidelines were put into final form — sometimes after a second or even third round of external reviews. As Guidelines were completed, they were published in *Court Manager*. After all 10 were published, they were all rewritten front to back and published together in the special issue of *Court Manager* this past summer.

As the Core Competencies evolved, four foundational concepts emerged and were incorporated into each of the Guidelines. The first foundation was the goals and values embodied in the Core Competencies. Courts and their various functions and departments must be led and managed consistent with the roles and purposes of courts. Not only is there a separate competency on *Purposes and Responsibilities of Courts*, the other nine competencies are linked to a court's roles and purposes. This recognizes that the courts' leadership needs to be strategic and oriented by purpose, mission, and values.

Second, "court manager" evolved into "court leader" and the court executive leadership team became a central concept. The Guidelines apply to appointed and elected court managers and their staff as well as judges in administrative positions and those aspiring to both judicial and court management leadership positions. While chief, presiding, and administrative judges and court managers do not have the same duties, they share responsibility for delivery of justice and court services in every jurisdiction. The view that chief and presiding and other administrative judges and their court managers must work together effectively if the ends of justice and service are to be achieved is embedded in every Guideline.

Third, NACM/PDAC understands that no court leader can or needs to know or be able to do everything described in all 10 Guidelines. Rather, the competencies encompass the knowledge, skill, and abilities needed by court executive leadership teams. They are not a minimum standard to be used to pinpoint the inadequacies of court leaders. Rather, they are a benchmark to be used by court executive team members to assess their competencies and to improve their own and their court's performance.

The fourth foundational concept is the complicated web of authority, responsibility, and interdependency within which courts operate. Management of courts does not and cannot occur in isolation. Judicial independence and separation of power is critical to the achievement of equal justice and due process, but it is tempered and, in fact, is defined by justice system interdependencies. Justice system operations and the internal management of court functions, departments, and workflows must be cohesive. This is particularly relevant to the leadership, caseflow management, resource acquisition and allocation, human resource management, and information technology competencies.

Courts must lead, communicate with, and listen to their justice partners and the communities they serve. Collaboration across court divisions and departments

and the justice system is a must if the courts are to deliver justice and effective services and programs for litigants and the public.

The 10 completed Core Competencies can be described as follows:

- *Purposes and Responsibilities of Courts* – provides a context for and orients the other nine core competencies;
- *Caseflow Management* – the processing and management of cases from filing to closure — the most basic thing courts do;
- *Leadership* – the energy behind every court system and court accomplishment;
- *Visioning and Strategic Planning* – tools court managers use to keep their court's activities focused on purposes and core values and to motivate staff;
- *Essential Components* – the many support services and programs managed by the judiciary or others on behalf of the judiciary and the citizens they serve;
- *Court Community Communication* – emphasizes the links a court has to those they serve and the need both to inform and to listen to litigants and the public;
- *Resources, Budget, and Finance* – the acquisition and allocation of resources that impact every court program, function, and responsibility;
- *Human Resources Management* – the management of the most important court resource — its staff;
- *Education, Training, and Development* – judicial branch education, inextricably linked to Human Resources Management; and
- *Information Technology Management* – helping a court to perform tasks faster and cheaper and to provide a higher quality of justice and service to litigants and the public.

The 10 Core Competencies describe the full range and scope of court leader responsibility and needed competence. However, to reiterate an important caveat, while the basics must be mastered by all court leaders, the Guidelines do not assume every court leader can or even needs to know and be able to do everything specified by the knowledge, skills, and abilities associated with every Core Competency Curriculum Guideline. Needed competency depends on the talents and abilities of the court executive leadership team and the circumstances of particular jurisdictions.

The Guidelines can be used for a number of purposes. They can provide increased understanding of courts, court leaders, and court operations and responsibilities. On an individual level, they can be used for self-assessment and individual professional development plans. They can also be used for formulating goals for the

Ask the AR Professionals – News You Can Use from the National Arbitration Forum

SOURCE: *JUDICATURE*, July – August 2003 – Vol. 87 No. 1 (used with permission)

Is it true that arbitrators tend to “split the baby” in rendering awards?

The short answer to this persistent myth is “no.” There is no evidence that arbitrators split awards down the middle in order to make parties happy—or at least to make them equally dissatisfied. This misperception probably derived years ago from labor-management arbitrations, where one arbitrator heard disputes from two parties over and over again.

However, the empirical evidence we have today suggests that “splitting” awards is simply a myth. In one study of international business arbitrations, the majority of awards resulted in outright “wins” or “losses” 66 percent of the time. The results of the remaining 34 percent were widely distributed, with awards from 10 to 90 percent of the amount, claimed. This would imply that arbitrators, as a rule, make decisive awards and do not “split the baby.”

University of Kansas law professor, Christopher Drahozal, makes a compelling point that arbitration administrators such as the American Arbitration Association, JAMS, National Arbitration Forum, and CPR Institute for Dispute Resolution, have a strong interest in making sure arbitration awards are fair and in ensuring that “repeat players” do not get preferential treatment. According to Drahozal, since arbitration administrators generate fees by providing administrative services for arbitration, they want to ensure that courts continue enforcing their arbitrators’ awards. So, not only do the major arbitration administrators have a reputational interest in having their arbitrators produce fair awards, they also have a strong incentive to make sure awards get enforced.

Drahozal’s advice? “One thing you might keep an eye on, if you are ever asked to look at arbitration clauses, is whether it is administered by an institution or not. If it’s administered by an institution, there are good incentives to keep the process fair.” (“Privatizing Civil Justice: Commercial Arbitration and the Civil Justice System,” *The Kansas Journal of Law & Public Policy*, Vol. 9, No. 2 (2000)).

COURTS HAVE BEEN VERY FAVORABLE TO ARBITRATION. ARE THERE ANY STUDIES ABOUT THE PUBLIC PERCEPTION OF ARBITRATION?

There actually have been quite a few studies of this kind over the years, and the results are that the American public favors arbitration. In one recent study, 90 percent of participants in arbitration believed their

cases were handled fairly. A Roper survey showed that 59 percent of Americans would automatically choose arbitration over litigation. That number jumped to 83 percent in favor of arbitration when survey participants were informed that arbitration could be significantly less expensive than litigation.

In their Worker Representation and Participation Survey, Princeton Survey Research Associates found that 83 percent of employees thought arbitration was “good” or “very good.”

The majority of employees (62 percent) thought arbitrators would resolve disputes more fairly than courts. Seventy-one percent of these employees thought it would be easier for an employee to get a fair hearing, and 73 percent thought employees would be better off.

Even in long-ago 1985, a survey by *Dispute Resolution Times* found that 83 percent of those surveyed favored using arbitration instead of the courts, while only 8 percent said it was a bad idea.

In a 2002 edition of the *Pepperdine Dispute Resolution Law Journal*, one legal commentator succinctly summed up the public’s perception of arbitration’s fairness to individuals with this statement, “There is also a general feeling of goodwill the public has about arbitration; people like it and believe it is fair.”

To receive the Forum’s whitepaper, “Arbitration vs. Lawsuits,” contact: Keith Maurer at kmaurer@arb-forum.com, or visit the Forum’s Web site at www.arbitration-forum.com. ♦

"Asking 'who ought to be boss?' is like asking 'Who ought to be the tenor in the quartet?' Obviously, the man who can sing tenor."

– HENRY FORD

E-filing: A Prescription to Ease Some of the Pain Caused by Court Budget Cutbacks and Space Shortages

SOURCE: THE HONORABLE HERBERT B. DIXON JR., SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

A weak economy and falling tax revenues have caused significant deficits in the budgets of many state and local governments. The National Conference of State Legislatures reports that some states are now entering their third straight year of budget shortfalls. In such an environment, state agencies face the daunting task of maintaining service levels – while administering serious budget cuts.

To no one's surprise, the judicial system also has come face-to-face with "grim reaper" type cost cutting challenges that have been imposed on numerous state agencies. Some courts have been forced to lay off staff, reduce operating hours, and, in extreme situations, even close whole courthouses. While judges and dedicated court personnel have made impressive efforts to fulfill their obligations as stewards of the judicial system, the pressures on the system are growing.

The combination of declining resources and increasing caseloads means that courts need to find ways to do more with less. My experience over 18 years as a judge has convinced me that the answer lies at least in part with the electronic filing and service of legal documents, or e-filing.

I use the term e-filing broadly to encompass everything from e-mailed correspondence between courts and law offices to full-scale online document filing and serving. E-filing provides a unique solution to problems of shortened or limited court hours by allowing litigants to file documents from home, office, or vacation hideaway, 24 hours a day, seven days a week. If e-filing was utilized on a large-scale basis, a court could get by on a smaller staff or reallocate resources, because fewer clerk hours would be needed to receive, process, and distribute case documents.

E-filing is now gaining nationwide momentum. Courts in numerous states, the District of Columbia, and several federal districts have successfully implemented e-filing systems. Of course, courts making a transition to e-filing will face some hurdles, especially resistance to change and fear of technology. But, there is some good news — resistance to change and fear of technology is not a permanent obstacle. Excellent examples of this are the extent to which computers and cell phones have become indispensable parts of everyday existence, and filing tax returns and making airline reservations over the Internet have become common events. These events and others forecast that electronic filing will become the norm. Society has accepted the concept of transmitting documents electronically, be it from home-to-home or law office-to-courthouse. Indeed, attorneys and court staff in my jurisdiction have overcome initial concerns and have realized the benefits of increased control over the process, lower litigation costs, and improved access to information.

In addition to the more efficient use of resources, e-filing helps to address another major challenge for the courts – dealing with the tons of paper produced by modern litigation. Our e-filing pilot project implemented more than two years ago involves approximately 650-700 cases in various stages of litigation. During this project we have seen the electronic equivalent of nearly 750,000 pages e-filed and served online. I predict we will reach the 1 million page mark within the second quarter of 2004. Simply stated, the manual process of distributing this volume of paper has been reduced to a simple point and click of a computer mouse.

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MEMBERSHIP UPDATE

As of October 31, 2003, NACM membership was 2,269 strong. If you enjoy the benefits of NACM and have not renewed your membership, please do so. If you know of someone who would enjoy the benefits, recommend a new member today! Regular membership in NACM is open to anyone serving in any court management, consulting, educational, or research capacity. Additional membership categories include associate, student, honorary, retired, and sustaining

members. **Remember! You get 1 year free of membership dues for bringing in 10 new members!** You can obtain more membership information by contacting National Association for Court Management, c/o NCSC, 300 Newport Avenue, Williamsburg, VA 23185-4147, Attention: Administrative Services, or call (757) 259-1841. You can also visit the NACM Web site at www.nacmnet.org. ♦



By **DON K. FERGUSON**

Rack – Wrack

Nerve-racking is a term easily used in speech, but if you want to write it the spelling might cause you to balk. Is it *racking* or *wracking*?

Either way is acceptable. The phrase means “extremely irritating, annoying, or trying.”

Rack in this sense means “torment; anguish; violent strain.”

Wrack means “to wreck.” Therefore, one might declare after experiencing a nerve-wracking day that he or she is a wreck

MEMENTO – MOMENTO

Did you hold on to a memento — a souvenir — from your last big vacation trip? Or is it *momento*? You hear it other ways. *Memento* is sometimes spelled and pronounced with the *mo* sound.

The word actually comes from the term *remember*. Therefore, *memento* is correct, but *momento* is seen and heard so often today that some authorities on words consider it merely a variant rather than a misuse of the word.

Copyright 1995. **Don K. Ferguson** is author of the book *Grammar Gremlins*, published by Glenbridge Publishing Ltd. It is available at bookstores or may be ordered by telephone, (720) 870-8381. Readers may direct questions and comments to Don at P.O. Box 2121 Knoxville, TN 37901, or e-mail gram-grem@esper.com. ◆

Model E-Filing Rules

SOURCE: MARSHA EDWARDS, LEXISNEXIS

Learn from the experiences of other courts when it comes to implementing electronic filing. Based on successful e-filing projects around the country, and consistent with the recently published Standards for Electronic Filing, LexisNexis has published “A Guide to Model Rules for Electronic Filing and Service.” This guide provides a framework to help you develop e-filing rules and offers commentary and proposed rules language. View a copy of the rules at www.lexisnexis.com/literature/pdfs/rulesPaper072903.pdf. ◆

SJI FUNDS RURAL COURT MANAGERS NETWORK

SOURCE: UPDATE OF THE SJI RURAL COURT NETWORK

The State Justice Institute (SJI) has awarded a grant to the Justice Management Institute (JMI) for a project designed to strengthen the ability of state court systems and rural court leaders to improve court operations in rural areas. The project will be conducted in cooperation with NACM and the National Judicial College.

Rural court, for the purpose of this grant, is defined as follows: the court serves an area that is not part of what the U.S. Census Bureau defines as a metropolitan statistical area; the court has no more than five judges; and the court serves a population of less than 100,000 and has no city with a population of more than 50,000. If you are interested in serving on the advisory board or in being considered as a prospective participant at the seminar, please send your resume and a letter of support from your judge to Barry Mahoney, Justice Management Institute, 1900 Grant Street, Suite 630, Denver, Colorado 80203. ◆

PLEASE CHECK AND UPDATE YOUR E-MAIL ADDRESS

NACM each year relies more and more on communicating with the membership through e-mail. Please look at your e-mail address on the Web page (www.nacmnet.org) and make sure it is correct. To log on from the home page, click on Members Only, then enter Username [this is you Member ID #] and then enter Password [the first letter of your first name and the first five letters of your last name]. You can then look at the membership list, find your name, and review the information for correctness. If it is not correct, please e-mail kmoseley@ncsc.dni.us and provide her with your correct e-mail address. ◆

“An expert is a person who has made all the mistakes which can be made.”

—NEILS BOHR, Nobel physicist

“Big Rocks”

Submitted by: DENISE LEAT,
ORANGE COUNTY SUPERIOR COURT, CALIFORNIA

A professor once stood before his class with some items in front of him. When the class began, he picked up a very large empty jar and proceeded to fill it with rocks, each about two inches in diameter. He then asked the class if the jar was full. They all agreed that it was. So the professor then picked up a box of pebbles and poured them into the jar. He shook the jar lightly. The pebbles rolled into the open areas between the rocks. He then asked the class again if the jar was full. They all agreed it was. The professor picked up a bag of sand and poured it into the jar. The sand filled in between the pebbles. He then asked once more if the jar was full. The students responded with a unanimous...yes.

“Now,” said the professor, “I want you to recognize that this jar represents your life. The rocks being the important things - your family, your health, and your children – things that if everything else was lost and only they remained, your life would still be full. The pebbles are the other things that matter like your job, your house, your car. The sand is everything else the small stuff. If you put the sand into the jar first there would be no room for the pebbles or the rocks. The same goes for your life. If you spend all your time and energy on the small stuff, you will never have room for the things that are important to you. Take care of the rocks first, the things that really matter. Set your priorities. The rest is just sand.” ♦

NCSC LAUNCHES SEARCH FOR NEW PRESIDENT

The National Center for State Courts recently launched a search for a new president on the heels of an announcement by current president Roger Warren that he will be leaving NCSC later this year. The Boston search firm Isaacson, Miller is actively seeking names of interested applicants or recommendations of potential candidates. Please visit the NCSC Web site, www.ncsonline.org <<http://www.ncsonline.org>>, for a job description and more information on the search. ♦

E-filing: A Prescription to Ease Some of the Pain Caused by Court Budget Cutbacks and Space Shortages, *Continued*
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The e-filing process helps courts and law firms streamline their activities. The public benefits from the more efficient use of public resources. And, for self-represented litigants who may not be able to afford an attorney, most courts make accommodations with public access terminals at the courthouse.

Financial realities drive the search for new ways to maintain government service. The good news is that a number of courts have already pioneered a solution that is now ready for the mainstream.

The court in which I work, the Superior Court of the District of Columbia, was one of the first courts on the East Coast to implement e-filing. For our project, we chose an e-filing application that is provided by a private vendor at no charge to the court. The vendor collects a fee from law firms and litigants when they file and serve documents. During the term of the project, the system has not been victimized by any security breach and has been reliable and available around the clock. Based on the success of our project, the bench and bar are anxiously awaiting e-filing’s expansion to more of the court’s cases.

There are other systems, some vendor supplied and maintained and others that are maintained by the court’s IT division, providing various levels of capability, from e-file Lite to e-file Platinum. I have no doubt that there is an available system for nearly every court to start its own project now.

What was once used to manage a few special case types is now available for a host of case types from domestic relations to complex litigation, because there are now plenty of models for a court to follow. After learning the system, the public will find that the process of e-filing is almost as easy as sending a quick e-mail message to a friend.

Courts that implement e-filing now are helping to lead the way to the future, a new era of government efficiency and service.

Judge Herbert B. Dixon Jr. is an 18-year member of the Superior Court of the District of Columbia and a former presiding judge of both the court’s Civil Division and the Multi-Door Dispute Resolution Division. He is chair of superior court’s electronic filing pilot project and co-chair of a new Electronic Filing Process Standards (“EFPS”) Committee of the National Conference of State Trial Judges. Judge Dixon may be reached at DixonHB@DCSC.gov. ♦

future as part of annual performance reviews, remembering that individual court leaders and their staff do not need to master all the particulars associated with every competency. On the group level, the Core Competencies can be used for planning educational programs of regional, state, or national court manager associations as well as university graduate and under graduate programs. Finally, national, regional, and state-based judicial branch educational providers can draw on the Guidelines as they develop and deliver professional development programs and workshops for court leaders, including judges, court managers, and staff.

NACM/PDAC is now turning its attention to needed curricula built around the Core Competency Curriculum Guidelines. Work completed to date took care not to cross the "curriculum development line." The focus was on clear and comprehensive articulation of what court leaders need to know and be able to do, leaving curriculum development to others and later project stages. Beginning this spring, NACM/PDAC shifted focus to development of curriculum to present the basics of all 10 Core Competencies as well as more advanced curriculum to fill existing curriculum gaps in national and state-based judicial branch education programs. Improved self and organizational assessment

tools will be developed, as well as a mechanism for ensuring update of the Core Competencies and their elements.

The complete set of all 10 Core Competencies was published in *Court Manager*, vol. 18, issue 2. They are also available, along with self and organizational assessment and other tools developed to date, at the NACM Web site. Visit www.nacmnet.org/CCCG/cccg_home-page.htm, or contact Geoff Gallas at (215) 951-2168 or at gsgallas@aol.com. ♦



CONGRATULATIONS TO THESE COURT MANAGERS

Rick Lewis has been appointed district administrator for the 18th Judicial District Court in Arophohoe, Douglas, Elbert, and Lincoln Counties, Colorado. Prior to this appointment, Rick served as the supreme court administrator for the Montana Supreme Court in Helena, Montana. ♦

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