The Program Committee for the 2018 National Conference of Appellate Court Clerk’s annual meeting has been hard at work preparing what we hope is an exciting and educational program for our fellow members of the NCACC! While some specifics are still being ironed out, we hope the following preview of what is coming your way in San Diego will pique your interest until the finalized schedule is set in stone and shared.

Monday, California Chief Justice Tani Gorre Cantil-Sakauye will present on Civic Engagement. The Chief has taken a leadership role in promoting civic awareness and engagement in California, and we are honored that the Chief was able to make time to speak with us about this important topic that she has taken an important role in advancing throughout her state.

Tuesday morning will kick off with a Threat Assessment course presented by Aron Ching, Captain with the California Highway Patrol Judicial Protection Section. Captain Ching has been interested in meeting with our group for some time, and we are happy we were able to make this connection work this year in San Diego.

Bob Lowney’s presentation last year on Honing your Leadership Skills Using the MBTI was one of the most well-received presentations from last year’s program, and many people (including Mr. Lowney) commented that they could have participated in his session for longer. You spoke, we listened, the schedules aligned, and Mr. Lowney will be returning to our conference this year!

Michael Roosevelt has trained attorneys, judges, and police officers, and this year he will be presenting to our conference on implicit (or unconscious) bias, discussing the attitudes and stereotypes that can affect what we do or how we act in any situation. Mr. Roosevelt is the former chair of the National Association of Judicial Educators Diversity Committee and an engaging speaker who we are happy to have join us.

The Vendor Show will be held on Wednesday, August 1st, this year, running from the late morning to the early afternoon with educational programs bookending it. And by popular request, this year we will not only be returning to the popular “What We Learned” sessions to end most of our days, but we will have one session of “What’s Bugging You?” to close out one of our days, so start thinking of topics that you want to see discussed!

There are a number of speakers and presenters that are still being finalized and confirmed, so this is just a tiny preview of what will be waiting for you in San Diego starting on July 29th!
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**THE DOCKET**  
News of the National Conference of Appellate Court Clerks

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The NCACC Executive Committee had a productive fall meeting in Lexington, Kentucky in late October. Lexington will be the site of the 2019 annual meeting. During our visit, our host, Susan Clary, took us on a tour of downtown Lexington and the surrounding areas, which include beautiful horse farms, distilleries and historic sites. Susan’s enthusiasm for Lexington and Kentucky is infectious and it will make her a wonderful host when we meet there in 2019.

During the Executive Committee meeting, we reviewed the interim reports of the various NCACC committees and previewed plans for the 2018 annual meeting program. We also reviewed the financial standing of the NCACC. One important topic of discussion was how best to safeguard and continue to strengthen the finances of the organization. Over the fall, the Finance and Investment Committee, led by Treasurer Janet Johnson, developed an investment policy to guide the committee’s decisions about the investment of NCACC funds. The policy, which was drafted by Ed Hosken and Jim Hivner, articulates the NCACC’s primary investment goals and identifies the considerations to be weighed in deciding upon the investments to be utilized. The investment policy was approved by the Executive Committee and will now be added to the Finance and Investment Committee’s operational guidelines. On behalf of the Executive Committee, I would like to thank the members of the Finance and Investment Committee for their work on this policy, which I believe will provide valuable guidance to the committee now and in the future.

Earlier in 2017, the Finance and Investment Committee suggested that a vice-chair be appointed for the committee to assist the Treasurer with her many responsibilities. The committee also recommended that the terms of Finance and Investment Committee members be extended to two years and that they be staggered to provide for continuity. These suggestions were referred for review to the Strategic Planning Committee, which agreed that the changes would strengthen the committee. The Strategic Planning Committee’s recommendations for implementing these changes will now be reviewed by the Bylaws Committee. If the Bylaws Committee recommends a change, a proposed amendment to the Bylaws will be presented to the membership at the 2018 annual meeting.

Another issue to emerge in 2017 was the question of the qualifications required for a member to serve as an officer in line to become NCACC president. Last year’s Nominating Committee surveyed members about their views on this issue and reported the results in the April 2017 issue of The Docket. To resolve any uncertainty about the qualifications required to serve in these positions, I appointed a special committee, in accordance with Article VII of the Bylaws. The special committee is being chaired by Marilyn May; the other members of the
Committee are Bill DeCicco, Blake Hawthorne, Amy Reitz, and Doug Robelen. I asked the committee to review the results of last year’s survey, to consider the question of the qualifications that officers in line to become president should possess, and to prepare a report for the Executive Committee recommending a resolution to this issue. I expect the committee to submit its report in time for the Spring Executive Committee meeting, so that the Executive Committee can determine what action, if any, should be taken on the report.

At the fall Executive Committee meeting, Eydie Gaiser, the new clerk of the Supreme Court of Appeals of West Virginia, advised us that her court was willing to continue hosting the NCACC website. The court’s hosting of our site, and the technical support it provides, is incredibly helpful to the NCACC. I wrote a note to Chief Justice Loughry to tell him how grateful we are for his generous support. I met Chief Justice Loughry in Washington, D.C. recently and I had the opportunity to thank him in person for his support.

One of the honors of serving as NCACC president is the opportunity to represent the NCACC at events related to the judicial system. In November, President-Elect Dan Shearouse and I represented the NCACC at the William H. Rehnquist Award Dinner at the U.S. Supreme Court. The Rehnquist award is presented by the National Center for State Courts to a state court judge who has taken creative steps to address legal issues affecting the judge’s community. This year’s honoree was Judge Kim Berkeley Clark, the administrative judge of the Family Division of the Court of Common Pleas in Allegheny County (Pittsburgh), Pennsylvania. Judge Clark was recognized for the steps that she has taken to change the way that children and families are treated in court. Her remarks at the dinner were thoughtful and inspiring. She emphasized the need for courts to recognize the humanity of people appearing before them, and to acknowledge the trauma that many of the people appearing in court have experienced. Judge Clark has worked to change the court environment and practices and procedures to take these considerations into account.

Although the 2018 annual meeting is months away, it is not too early to put it on your calendar. It will be held at the Sheraton San Diego Hotel and Marina from July 29 to August 3, 2018. Past President Irene Bizzoso and I are in the process of finalizing a letter that will be posted on our website and sent to the chief justices or presiding justices of member courts describing the benefits of attending the annual meeting. It is our hope that the letter will be a useful tool for members seeking approval from their courts to attend the annual meeting.

I wish everyone a happy, healthy and successful 2018. Please be in touch if you have any ideas or concerns. My email address is efox@courts.state.nh.us.
Call for Nominations
for Officers and Executive Committee
Deadline: March 16, 2018

The NCACC derives its strength from the commitment of its members. Please take a little time to think about who could provide effective leadership for the coming years. You can help our organization to grow and thrive by participating in the nominating process. You don’t have to nominate an entire slate. If you feel you are ready to serve, feel free to nominate yourself or ask someone to nominate you.

I have included the Bylaws provisions regarding the duties of each position below. If you have questions about what service as an officer or an executive committee entails, please contact me or any other nominating committee member: Eydie Gaiser (WV), Blake Hawthorne (TX), Ed Hosken (VA), Janet Johnson (AZ), Lillian Richie (LA), and Dan Shearouse (SC).

Marilyn May (AK), Chair
Nominating Committee

Office of Vice-President: ___________________________________________________
Presently held by Laura Roy (MO)

Office of Secretary (two-year term): __________________________________________
Presently held by Sherry Williamson (TX)

Executive Committee Positions (2-year terms):

Position 1: _________________________________________________________
Presently held by Scott Mitchell (AL)

Position 2: _________________________________________________________
Presently held by Lisa Collins (UT)

Position 3: _________________________________________________________
Presently held by Christopher Prine (TX)

Article V Par. 3: Election and Succession of Officers. The President-Elect shall succeed to the office of the President at the expiration of the term as President-Elect. The Vice-President shall succeed to the office of President-Elect at the expiration of the term as Vice-President. The President shall succeed to the office of Past-President at the expiration of the term as President. At each annual business meeting, the Vice-President shall be elected by a vote of a majority of the members present at the meeting and entitled to vote; the Secretary and the Treasurer shall be elected for two-year terms, the Secretary in even-numbered years and the Treasurer in odd-numbered years. The Treasurer and the Secretary shall be eligible for reelection.
Article VI Par. 1: Duties of the President. The President shall serve as the chief executive officer and shall preside at all meetings of the Conference and its Executive Committee.

Article V Par. 5: Duties of Secretary. The Secretary shall be responsible for the taking of the minutes of the Executive Committee and the annual business meeting or any called meeting and for distributing them to the Executive Committee and the National Center for State Courts. The minutes of the annual business meeting or any called meeting of the full Conference shall be transmitted to the members of the Conference with the call of the next annual business meeting; this requirement may be met by publication in The Docket, the NCACC newsletter. The Secretary shall be responsible for overseeing the billing of every member of the Conference for annual dues no later than January fifteenth of each year and the maintenance of a list of all members in good standing.

Article VII Par. 2: Executive Committee.
(a) Powers and Duties. The Executive Committee is the Board of Directors. It shall direct the affairs of the Conference and shall meet annually prior to the annual business meeting of the Conference and at other times at the call of the President or seven members of the Committee. All matters before the Executive Committee shall be determined by a majority vote of those present. Seven members of the Executive Committee shall constitute a quorum. The Executive Committee shall decide any question raised on the interpretation and application of these Bylaws.

Please review the NCACC Bylaws for further details regarding these positions and other important conference information.

FOLLOW US ON TWITTER!

Make sure to follow us on Twitter to get all the latest information regarding the conference and what is happening in the organization. Our user name is @NCACCorg. If you tweet a matter of interest to the Conference, please make sure to include @NCACCorg in your tweet and include hashtag #NCACCorg with your pictures on social media.
Emerging Technology Impacting Courts
Contributed by Amy Wood

Every two years the National Center for State Courts (NCSC) holds a Court Technology Conference where court leaders and technologists are exposed to innovative technical solutions for court-related opportunities and problems. Many of the technologies referenced herein were presented and discussed at the 2017 Court Technology Conference in Salt Lake City, Utah. A particular focus on Artificial Intelligence (AI) was evident in many of the solutions. The ability for a machine to “learn” from feedback and improve over time, combined with the speed at which computers can process information, is changing the problem-solving paradigm.¹

Automated Redaction/Extraction Software

Redaction software has been around the courts for many years, but recent advances have taken advantage of AI to allow software to “learn” how to redact and extract information in more consistent and automated ways. The NCSC recently invited leading redaction/extraction vendors to participate in a test. The NCSC supplied each vendor with documents that included structured fields in structured documents (such as a phone number on a form), unstructured fields in structured documents (such as a name on a form), structured fields in unstructured documents (such as a social security number in an opening brief) and unstructured fields in unstructured documents (such as a victim’s name in a pleading). The findings were surprising. After the initial learning phase, the software performed with a high degree of accuracy, over 90% even for the difficult unstructured data in unstructured documents condition.²

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<td>Structured Documents</td>
<td>100%</td>
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<td>Unstructured Documents</td>
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Although still an expensive solution, the strength of these tests is giving rise to a conversation through the Conference of State Court Administrators re-visiting its public access policy. Many states have relied on practical obscurity as part of their public access to records plan. Records that are public, but more sensitive in nature, are not available online whereas more routine, less sensitive records are readily available. One thought is that the effectiveness of redaction software may shift policy to treating all public records, regardless of the level of sensitivity, in the same manner in terms of electronic access.³

Many software packages provide the additional benefit of extracting data. The growing sophistication of Extensible Mark-up Language (XML) has provided a framework for the extraction of data to be utilized, thereby increasing the efficiency of data entry. Imagine the day when software can “read” a document and find the fields of information necessary to initiate a case, place those fields into an XML message that can then be read and imported into the case management system. An efiling project similar to this is being contemplated in the federal courts through a partnership with the NCSC.
Recording/Transcript Software

Numerous vendors have been providing digital recordings of proceedings for years. In many jurisdictions, these recordings are transcribed by court reporters on an “as needed” basis. At least one vendor has taken a step towards using AI to provide unofficial transcripts along with the digital recording. Picture a trial court judge who has taken a ruling under advisement. In many courts, the judge may need to wait for a transcript to be prepared, or to play the recording of the relevant proceeding, fast-forwarding to critical junctures. Newer technology provides an unofficial transcript with over 85% accuracy that links the audio to the text. Using this tool, the judge could search for a pertinent word in the transcript, and once in that location, begin playing the audio from that point in time. Conversely, the judge could go to a particular point in time for the audio and start reading the transcript. Trial court judges piloting this tool have anecdotally reported time savings of hours or days to be able to complete their rulings.⁴

Customer Service

In a world where groceries can be ordered online, and car dealerships have salespeople available to “chat” 24x7, customer expectations for technology are high. This is at odds with the state that many courts find themselves—requiring people to come to the counter to conduct business. Electronic filing is no longer cutting edge; it is expected. Delivery of web content to PCs is no longer sufficient; customers require mobile device access. Courts are working to address these expectations using technology, and exploring the notion of whether a court is a place or a service.⁵

Websites/Forms/Notifications

Traditional websites have been passive in nature. Innovative website designs use interactive modules to address customer needs. Screening for eligibility, filling out forms, and answering questions are just a few examples of interactivity through websites. Many of these solutions use AI to improve on responses in the interactions over time. There are software packages available that help build these interactive web spaces.

- **Neota Logic** was used by a Virginia Legal Services organization to put a web-based eligibility tool on their website. In the first year of operation, over 4,000 people used the application. Of those, more than 1,500 were determined to be ineligible for services so they were referred elsewhere without using staff time.⁶

- **OpenAdvocate** software has been used to manage website content with particular attention to mobile devices and to ensure that content is written at an appropriate level (8th grade).⁷

- **A2J Author** has been used to create user friendly interviews that provide the necessary information to fill out forms in New York and other locations.⁸
Simpler technical solutions are also in use. Some courts have begun to have “chat” sessions available online where staff can interact with customers online. Automated text messages reminding customers of court appearances and/or next steps in the process are also becoming more and more common.  

*Online Dispute Resolution*

Tools used in the private sector (such as eBay and PayPal) to resolve customer issues are garnering more support for use in court cases. Online Dispute Resolution (ODR) allows parties to have structured interactions online to work towards an amicable resolution. The interactions are run by an automated system rather than requiring human intervention. This technology is being tested in numerous courts around the world. Straightforward proceedings such as Small Claims disputes were the most common candidates for ODR initially, but more and more applications are being explored. Some case management systems are beginning to add ODR modules into their suite of tools (such as Tyler’s Modria) while other vendors sell solutions that will integrate with a CMS (such as Matterhorn). ODR has the potential to be cost-effective while enhancing access.

- In Michigan, ODR was used for traffic violations in three courts and resulted in a 74% reduction in average days to resolution.
- In the Netherlands, an ODR software called “Rechtwijzer” was used to interview each party seeking divorce independently and search for points of agreement. The system proposed solutions which the couple can accept or reject; if rejected, the system assigned a mediator.

Courts are not the only entities utilizing this technology. Mediation firms are exploring this as well. It is possible that ODR will become a solution for courts, or a competitor to courts.

*Analytics*

The increased use of technology in customer services is proving to allow greater access to information about customers that can be used to inform future decisions. Information such as call length, click rates, and customers served is more readily available using technology tools. The relative availability of this information may, over time, change expectations by the public and/or funding authorities in terms of the type of information reported.

*Digital Evidence*

New technology in other areas of the justice system or in everyday life also impacts courts. The large increase in body worn cameras by police officers, and cell phone footage gathered by witnesses as well as social media outlets, such as Facebook, are driving many discussions about evidence and the record.
Digital evidence provides new challenges in terms of the storage, preservation and disposition of the evidence. These challenges are leading to questions regarding traditional rules of evidence. Can digital evidence be stored in one trusted location and shared between justice agencies and/or courts, or do separate copies need to be stored at each location? Tensions between the cost of supporting digital storage space and related infrastructure are at odds with traditional chain of custody. Digital evidence may be collected in many different formats which creates additional challenges. A standard format that everyone can view is important, but that would necessitate changing the original recording. Conversion to a standard format opens the door for corrupting or changing the original file. Numerous jurisdictions are starting to grapple with these issues and evaluating existing court rules in this light.

Protecting Courts

Technology, like anything else, can be used for good or evil. Emerging technologies are also pushing courts to look at new threats to the record and to public confidence. Disaster recovery and emergency preparedness plans now need to contemplate new scenarios that may not have been considered a decade ago. In addition to floods, earthquakes and active shooters, agencies now need to consider, and plan for viruses, ransomware, theft, exposure or changes to data, the Dark Web, phishing and wifi attacks. Although the focus on securing technology is important, an emphasis on education and awareness for court staff is also critical. “Social engineering” is still considered one of the easiest ways to gain access to an organization. Some government agencies have made technical security awareness an ongoing educational requirement for all employees. Teaching employees when to be wary, and to question before they act helps protect against phishing schemes. Chilling stories continue to emerge, such as the HR director in a private company who received an email that looked like it came from the president of the company, asking for all of the W-2s for all employees. She complied. The company is now paying for continued identity theft monitoring and protection for all employees. An ongoing effort is necessary to keep employees aware of new hacking strategies.

Courts are encouraged to evaluate their technology and their people for weaknesses and put plans in place to mitigate the risks. Courts also need to plan for these events, including planning for how information regarding a security breach will be communicated, and by whom. There is a general consensus that it is not a matter of “if,” but “when” a breach will occur.

Planning also includes vendor qualifications. With the increased use of cloud computing, the federal government has established the Federal Risk and Authorization Management Program (FedRAMP) which “provides a standardized approach to security assessment, authorization, and continuous monitoring for products and services.” Certifications such as this may be a path to ensuring selection of knowledgeable and capable contractors.

There is little doubt that the next decade will continue to bring about a great deal of change in technology impacting courts. Awareness of emerging technologies may help prepare for the impact.
Endnote References


4Lederer, F. (2017). Advances in Court Record. Presentation to the Court Technology Conference: https://d3oxih60gx1s6.cloudfront.net/11ec5273-3f29-4ab4-99b2-998e7056744d/d5e0779b-8bfc-4aa8-9158-ea57e2baf08_Court_Record_Advances.pdf


10Online Dispute Resolution and the Courts (2016). Joint Technology Committee: http://www.ncsc.org/~/media/Files/PDF/About%20Us/Committees/JTC/ODR%20QR%20final%20V1%20-%20Nov.ashx

11Legg, supra, fn 9.


15De Souza, V. (2017). The Day After Tomorrow: Cyber Crisis Management. Presentation to the Court Technology Conference: https://d3oxih60gx1s6.cloudfront.net/11ec5273-3f29-4ab4-99b2-998e7056744d/9a2d830-0065-4542-bfe9-176ad33d9d69_cyber_crisis_management.pdf

16Id.

17FedRAMP Program Overview: https://www.fedramp.gov/about-us/about/
NOMINATIONS FOR AWARDS REQUESTED

Nominations for the J.O. Sentell Award and the Morgan Thomas Award are being sought by the 2017-2018 Awards Committee. These awards will be presented at the 2018 NCACC Annual Conference in San Diego, California.

James Oscar Sentell, Jr. was a founding member and the first president of the NCACC. The J.O. Sentell Award is given to a NCACC member who has contributed substantially to the objectives of the conference by improving skill and knowledge through conferences, seminars or other educational programs; promoting and improving the contribution of appellate court clerk offices within the area of effective court administration; and the collection and dissemination of information and ideas concerning the operation and improvement of the offices of appellate court clerks. (See Article II of the Bylaws)

The Morgan Thomas Award is given in recognition of an individual who is not a member of the NCACC, but who has made significant contributions to professionalism and supports the goals of the NCACC, as a body and of its members individually.

Past recipients of both awards are listed in the NCACC Directory and on the NCACC website. Last year’s recipient of The J.O. Sentell Award was Rory Perry, the Clerk of the Supreme Court of Appeals of West Virginia. Last year’s recipient of the Morgan Thomas Award was Shauna Strickland of the National Center of State Courts.

Award Committee Members:
Deana Williamson (Chair) (TX), Sherry Williamson (EC Liaison) (TX), Bill DeCicco (DC), Ed Hosken (VA), Terry Lord (MO), Joe Perlak (DC), and Doug Shima (KS)

AWARDS NOMINATION FORM

J.O. SENTELL AWARD

Please make your recommendation below and provide your reasons.
I nominate: ______________________________
Reasons:________________________________________________

MORGAN THOMAS AWARD

Please make your recommendation below and provide your reasons.
I nominate: ______________________________
Reasons:________________________________________________

If more space is needed, you may attach a separate page.

Please submit the Awards Nomination Form no later than March 1, 2018 to:
Deana Williamson
Email: deana.williamson@txcourts.gov
Mail: Court of Criminal Appeals, P.O. Box 12308, Austin, TX 78711 or Fax: 512-463-7061.
Would you like assistance in funding your attendance at the 2018 annual meeting in San Diego? If the lack of funding could prevent you from attending, please consider applying for a scholarship. Scholarship funds are awarded as a means of promoting attendance at annual meetings of the NCACC by members who would otherwise be unable to attend. Scholarship money may be used to pay for transportation to and from the meeting and/or lodging.

The application is posted on the NCACC website and is included in this issue of *The Docket*. The scholarship criteria are detailed in the NCACC directory under the Committee Operation Guidelines/NCACC Scholarship Committee.

Please submit your scholarship application by email or postal mail to Nikiesha Cosby, National Center for State Courts, by May 2, 2018. If you apply for a scholarship and later discover that funding is available for your trip, please advise the Scholarship Committee. Feel free to contact Lisa Matz, Scholarship Committee Chair, at lisa.matz@5th.txcourts.gov if you have any questions or comments.
If the lack of funding may prevent you from attending the annual meeting held in San Diego this year, please consider applying for a scholarship. Scholarship funds are awarded as a means of promoting attendance at annual meetings of the NCACC by members who would otherwise be unable to attend. Scholarship money may be used for transportation and lodging expenses. If you apply for a scholarship and later discover that your court will fund part or all of your trip, please advise the Scholarship Committee. If you have any questions or concerns, please contact Lisa Matz, Scholarship Committee Chair.

INSTRUCTIONS: Please review the scholarship selection criteria outlined in the NCACC directory (Scholarship Committee Operational Guidelines). Completed application should be sent to Nikiesha Cosby at the National Center for State Courts by May 2, 2018.

Please complete form and return to:
Nikiesha Cosby: ncosby@ncsc.org
Or mail to Nikiesha Cosby:
National Conference of Appellate Court Clerks
National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185

FUNDING REQUESTED FOR THE ANNUAL MEETING IN SAN DIEGO, CALIFORNIA JULY 29—AUGUST 3, 2018

Name: ____________________________________________
Title: _____________________________________________
Employing Court: ___________________________________
Mailing Address: ___________________________________
   City: __________________________ State: ______ Zip: __________
Email Address: __________________________ Telephone: __________
Are you an NCACC member in good standing?   Yes   No
Total number of NCACC members employed by your court: _______________
Is your court offering any funding for your attendance at the Annual Meeting?   Yes   No
   If yes, what amount? _______________________
Are there any restrictions on these funds?   Yes   No
   If yes, please list the restrictions: _______________________
   ____________________________________________________
   ____________________________________________________
Did or will your court fund your attendance at other educational programs during the twelve months immediately preceding the 2017 Annual Meeting?  Yes  No

If yes, please identify the program(s) and total amount expended: ____________________________________________
_____________________________________________________________________________________________

Is your court funding the attendance of other staff at the NCACC annual conference?  Yes  No

If so, how many? __________

Have you or another member of your office received a scholarship within the past five years?  Yes  No

If so, who and when? ____________________________________________

What amount of financial assistance are you seeking from NCACC: ________________________________

TRAVEL

List the estimated fare for economy or coach airline ticket: ________________________________

-OR-

List the total roundtrip mileage from your home to the conference site: ________________________________

(mileage reimbursement rate will be determined by the Executive Committee)

LODGING

Number of nights: ______________  Rate per night: ______________

REGISTRATION FEE

Are you requesting a waiver of the $400 conference registration fee?  Yes  No

STATEMENT IN SUPPORT OF YOUR APPLICATION

Please explain why you believe you should receive a scholarship. Please attach additional pages if necessary.

______________________________________________________________________________________________________
______________________________________________________________________________________________________
______________________________________________________________________________________________________
______________________________________________________________________________________________________
______________________________________________________________________________________________________

I hereby certify that the foregoing answers are true and correct to the best of my knowledge and belief. I acknowledge my obligation to keep the NCACC apprised of any changes in my funding status that might affect my eligibility for scholarship assistance. I understand that my attendance at all education sessions is required should I receive scholarship assistance.

Applicant’s Signature: ________________________________  Date: __________