

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 83 ]

#### Amendment of Rule 219 of the Rules of Disciplinary Enforcement; No. 140 Disciplinary Rules Doc.

##### Order

*Per Curiam*

*And Now*, this 12th day of April, 2016, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 46 Pa.B. 978 (February 27, 2016):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 219 of the Pennsylvania Rules of Disciplinary Enforcement is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days. The amendments relating to mandatory electronic registration shall be applicable beginning with the 2016-2017 assessment year.

##### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

##### Subchapter B. MISCONDUCT

#### Rule 219. Annual registration of attorneys.

(a) Every attorney admitted to practice law in this Commonwealth shall pay an annual fee of \$125.00 and **electronically** file the annual fee form provided for in this rule **by July 1**. The fee shall be collected under the supervision of the Attorney Registration Office, which shall **[ send or cause to be sent to every attorney, except an attorney who has elected to file the form electronically, the annual fee form ]** make the annual fee form available for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. **[ The Attorney Registration Office shall transmit to those attorneys who have elected to file the form electronically a notice by e-mail to register by July 1. Failure to receive the annual fee form by mail or electronically shall not excuse payment of the fee. ]** The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. **Upon an attorney's written request submitted to the Attorney Registration Office and**

**for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.**

**Official Note:** Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Pa.R.D.E. 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security.

(b) The following shall be exempt from paying the annual fee required by subdivision (a):

(1) Justices or judges serving in the following Pennsylvania courts of record shall be exempt for such time as they serve in office: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court;

(2) retired attorneys; and

(3) military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys).

**Official Note:** The exemption created by subdivision (b)(1) does not include Philadelphia Traffic Court judges, Pittsburgh Municipal Court judges, magisterial district judges, arraignment court magistrates or administrative law judges.

(c) On or before May 15 of each year, the Attorney Registration Office shall transmit to all attorneys required by this rule to pay an annual fee **[ , except those attorneys who have elected electronic filing, a form required by subdivision (d) of this rule. On or before May 15 of each year subsequent to the year in which an attorney elects electronic filing, the Attorney Registration Office shall transmit to such attorney ]** a notice by e-mail to register electronically by July 1. **Failure to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.**

(d) On or before July 1 of each year, all attorneys required by this rule to pay an annual fee shall **electronically** file with the Attorney Registration Office **[ a signed or ]** an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

(i) The date on which the attorney was admitted to practice, licensed as a foreign legal consultant, granted limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, or issued a Limited In-House Corporate Counsel License, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current **e-mail**, residence and office addresses of the attorney, **[ each ]** the latter two of which shall be an actual street address or rural route box number **[ , and the ]**. The Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either **[ required ]** the residence or office

address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, as well as telephone and fax number will be accessible through the website of the Board (<http://www.padisciplinaryboard.org> [ / ]) and by written or oral request to the Board. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.

**Official Note:** Public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4), within or outside this Commonwealth in which the attorney, from May 1 of the previous year to the date of the filing of the annual fee form, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

For purposes of this subparagraph, the phrase "funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct" means funds that belong to a client or third person and that an attorney receives:

- (A) in connection with a client-lawyer relationship;
- (B) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;
- (C) as an agent, having been designated as such by a client or having been so selected as a result of a client-lawyer relationship or the lawyer's status as such;
- (D) in connection with nonlegal services that are not distinct from legal services;
- (E) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship; or
- (F) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship.

**Official Note:** For purposes of subparagraph (iii), "funds of a third person" shall not include funds held in: 1) an attorney's personal account held jointly; or 2) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse.

If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit under this subparagraph (iii).

(iv) Every account not reported under subparagraph (iii), that held funds of a client or a third person, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account, during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution (whether or not the entity qualifies as a "Financial Institution" under Pa.R.P.C. 1.15(a)(4)), location, and account number.

**Official Note:** Regarding "funds of a third person," see Note to Rule 219(d)(1)(iii).

(v) Every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution, location and account number.

(vi) A statement that the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disciplinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

(vii) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(viii) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts required by Rule of Professional Conduct 1.4(c). Rule 1.4(c) does not apply to attorneys who do not have any private clients, such as attorneys in full-time government practice or employed as in-house corporate counsel.

**Official Note:** The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its [ **web site** ] **website**. The requirement of Rule 219(d)(3) that every attorney who has filed an annual fee form [ **or elects to file the form electronically must notify** ] **must give written notice to** the Attorney Registration Office of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(ix) Such other information as the Attorney Registration Office may from time to time direct.

(2) Payment of the annual fee shall [ **accompany the form** ] **be made in one of two ways: a) electronically by credit or debit card at the time of electronic transmission of the form through the online system of the Attorney Registration Office, which payment shall include a nominal fee to process the electronic payment; or b) by check or money order drawn on a U.S. bank, in U.S. dollars using a printable, mail-in voucher.** IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. If the [ **form and payment are** ] **annual fee form, voucher or payment is** incomplete or if a check in payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection

fee, and one or both of the late payment penalties prescribed in subdivision (f) of this rule if assessed, shall also have been paid. The amount of the collection fee[ , ] shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for checks returned to the Board unpaid.

(3) Every attorney who has filed the form [ **or elects to file the form electronically** ] shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change, which notice shall be sent by mail or facsimile transmission, provided, however, that any change in the information required by subsections (d)(1)(iii), (iv) and (v) (collectively relating to financial account information) that occurs after the filing of the form required by subdivisions (a) and (d)(1) of this rule need only be reported on the next regular annual fee form due July 1. **Attorneys must promptly ensure that IOLTA accounts are properly enrolled with the Pennsylvania IOLTA Board pursuant to the applicable IOLTA regulations.** Failure to timely register and file the next annual fee form shall not excuse this subsection's requirement of reporting changes in financial account information on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of this rule.

(4) Upon original admission to the bar of this Commonwealth, licensure as a Foreign Legal Consultant, issuance of a Limited In-House Corporate Counsel License, or limited admission as an attorney participant in defender and legal services programs pursuant to Pa.B.A.R. 311, a person shall concurrently file a form under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

(5) **Submission of the annual fee form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.**

**Official Note: Subsection (5) of subdivision (d) incorporates the language of *In Re: Provisions for Electronic Filing of Attorney Registration Statements, No. 99 Disciplinary Rules Docket (Pa. Supreme Court, April 13, 2011).***

(e) Upon receipt of a form, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of subdivision (d) of this rule, and of payment of the required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged on a certificate or license.

(f) Any attorney who fails to complete registration by July 31 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 31, at which time the continued failure to comply with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief

Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this subdivision (f), registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If a check in payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall be added to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of subdivision (h)(3) of this rule.

(g) The Attorney Registration Office shall provide to the [ **Board secretary** ] **Office of the Secretary** a copy of any certification filed by the Attorney Registration Office with the Supreme Court pursuant to the provisions of this rule.

(h) **An attorney who has been administratively suspended pursuant to subdivision (f) for three years or less is not eligible to file the annual fee form electronically.** The procedure for reinstatement [ **of an attorney who has been administratively suspended pursuant to subdivision (f) for three years or less** ] is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment penalties required by paragraph (3);
- (iv) any unpaid collection fee; **and**
- (v) a reinstatement fee of \$300.00.

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the [ **Board** ] **Office of the Secretary** and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Where a check in payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the

attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended must pay the late payment penalties incurred in the year in which the formerly [ **admitted** ] **admitted** attorney is transferred to administrative suspension. The amount of the late payment penalties shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the form required by subdivision (d) of this rule.

(i) *Retired Status:* An attorney who has retired [ **shall file with** ] **must file by mail or deliver in person to the Attorney Registration Office an application for retirement and payment of any applicable late fees or penalties pursuant to subdivision (f).** Upon the transmission of such application from the Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to retired status, and the attorney shall no longer be eligible to practice law. The retired attorney will be relieved from [ **the** ] payment of the **annual** fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Prothonotary.

(j) *Inactive Status:* An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (2) of this subdivision (j) for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under subdivision (d) of Enforcement Rule 218 (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d), **shall file the form through the online system identified in subdivision (a),** and shall pay an annual fee of \$70.00 **in the manner provided in subdivision (d)(2).** Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any check in payment that

has been returned to the Board unpaid, and being placed on administrative suspension[ , ] pursuant to and in accordance with the provisions of subdivision (f) of this rule.

(2) *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request a resumption of active status [ **on a form provided by** ] **form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office.** Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment, unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not been on active status at any time within the preceding three years (see Enforcement Rule 218(h)), upon the payment of:

(i) the active fee for the assessment year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year; and

(ii) any collection fee or late payment penalty that may have been assessed pursuant to subdivision (f), prior to the inactive attorney's request for resumption of active status.

Where a check in payment of fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

**Official Note:** Subdivisions (h), (i) and (j) of this rule do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See Enforcement Rule 218(h)(1).

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status:* An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status [ **to inactive status** ] **form from the Attorney Registration Office. [ The Attorney Registration Office ] The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office** shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

(1) the annual form required by subdivision (d);

(2) payment of the annual fee required by subdivision (j)(1);

(3) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and

(4) payment of an administrative processing fee of \$100.00.

Where a check in payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be

deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

An active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by this rule must comply with subdivision (h) before becoming eligible to register as inactive or retired.

**Official Note:** Former subdivision (k), which was adopted by Order dated April 16, 2009 (No. 75 Disciplinary Rules Docket No. 1, Supreme Court), effective May 2, 2009, established a grace period of one year commencing on July 1, 2009 in which any attorney who was on inactive status by order of the Supreme Court, could request and achieve reinstatement to active status under Enforcement Rule 218 or another applicable subdivision of Enforcement Rule 219 in order to avoid an automatic change in status to administrative suspension. The grace period was administratively extended to August 31, 2010, and any involuntarily inactive attorney who did not achieve active status by that date was transferred to administrative suspension on September 1, 2010.

(1) The Board shall transmit by certified mail [ , **return receipt requested,** ] to every attorney who fails to pay any expenses taxed pursuant to Enforcement Rule 208(g) (relating to costs), addressed to the last known address of the attorney, a notice stating:

(1) That unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.

(2) That upon entry of the order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

(m) Upon payment of all expenses taxed pursuant to Enforcement Rule 208(g) by a formerly admitted attorney on administrative suspension solely for failure to comply with subdivision (l) of this rule, the Board shall so certify to the Supreme Court. Unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Board with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

(n) A former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the Attorney Registration Office a notice in writing [ **to that effect** ]. The notice shall:

[ (i) ] (1) describe:

[ (A) ] (i) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline;

[ (B) ] (ii) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program; **and**

[ (ii) ] (2) include a waiver **available through the Attorney Registration Office and signed** by the justice or judge, if the notice discloses a proceeding described in [ **paragraph (i)** ] **subsection (1)**, of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules[ ; ].

[ (iii) ] **be accompanied by payment of the full annual fee for the assessment year in which the notice is filed.** ]

**An annual fee form will be provided by the Attorney Registration Office. The form must be filed by mail or delivered in person to said Office and be accompanied by payment of the full annual fee for the assessment year in which the notice is filed.**

[Pa.B. Doc. No. 16-736. Filed for public inspection April 29, 2016, 9:00 a.m.]

## Title 207—JUDICIAL CONDUCT

### PART III. JUDICIAL CONDUCT BOARD

[ 207 PA. CODE CH. 105 ]

#### Amendment of Rule 14 of the Judicial Conduct Board Rules of Procedure

On April 4, 2016, the Judicial Conduct Board, pursuant to its authority under Article V, § 18(a)(6) of the Pennsylvania Constitution, amended Rule of Procedure 14 as more specifically set forth herein, to become effective immediately.

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART III. JUDICIAL CONDUCT BOARD

#### CHAPTER 105. INTERIM SUSPENSION; SPECIAL NOTICE TO SUPREME COURT OR COURT OF JUDICIAL DISCIPLINE

Rule 14. Special Notice to the Supreme Court [ **or** ], the Court of Judicial Discipline, **or a President Judge.**

(A) Whenever the Board becomes aware of an indictment or information charging a felony against a Judicial Officer, the Board may file appropriate notice with the Court of Judicial Discipline.

(B) Whenever the Board becomes aware of information related to a Judicial Officer which may, as provided by law, require or permit the exercise of the Supreme Court's inherent power over the unified judicial system, the Board may file appropriate notice with the Supreme Court.

(C) **Whenever the Board becomes aware of information related to a Judicial Officer which may, as provided by law, require or permit the exercise of a president judge's supervisory or administrative power over a Judicial Officer, the Board may provide appropriate notice to the president judge.**

*Official Note:* Paragraph (C) allows appropriate notice to a president judge if the Board becomes aware of information that may permit the exercise of a president judge's exercise of supervisory or administrative power over a Judicial Officer. Such authority is currently found in Rule 14 in relation to the Supreme Court's inherent power over the unified judicial system generally. The Board has concluded that this limited authority to disclose information does not adequately address all situations that confront the Board during investigations, and, consistent with the Board's constitutional obligation to keep matters confidential, believes this amendment allows for an additional avenue of limited disclosure of otherwise non-public information in appropriate circumstances.

The authority of president judges is not well-defined. President judges and their authority are provided for in the Constitution of Pennsylvania, the Judicial Code, and the Rules of Judicial Administration.

Article V, section 10(d) of the Pennsylvania Constitution provides for president judges, as follows:

The Chief Justice and president judges of all courts with seven or less judges shall be the justice or judge longest in continuous service on their respective courts; and in the event of his resignation from this position the justice or judge next longest in continuous service shall be the Chief Justice or president judge. The president judges of all other courts shall be selected for five-year terms by the members of their respective courts, except that the president judge of the traffic court in the City of Philadelphia shall be appointed by the Governor. A chief justice or president judge may resign such position and remain a member of the court. In the event of a tie vote for office of president judge in a court which elects its president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

Pa. Const., art. V, § 18(d). As is readily apparent, the Constitution does not specify the powers or authority of president judges.

The Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, § 325, provides for the powers of president judges, as follows:

(a) *General rule.*—The Chief Justice of Pennsylvania and the president judges of all courts with seven or less judges shall be the judge longest in continuous service on their respective courts. In the event of his resignation from this position the judge next longest in continuous service shall be the Chief Justice of Pennsylvania or the president judge. Should any two or more judges of the same court assume office at the same time, they shall cast lots forthwith for priority of commission, and certify the results to the Governor who shall issue their commissions accordingly.

(b) *Courts of eight or more judges.*—The president judges of all courts with eight or more judges shall be selected for five-year terms by the members of their respective courts. In the event of a tie vote for the office of

president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

\* \* \* \* \*

(e) *Powers of president judge.*—Except as otherwise provided or prescribed by this title, by general rule or by order of the governing authority, the president judge of a court shall:

(1) Be the executive and administrative head of the court, supervise the judicial business of the court, promulgate all administrative rules and regulations, make all judicial assignments, and assign and reassign among the personnel of the court available chambers and other physical facilities.

(2) Exercise the powers of the court under section 2301(a)(2) (relating to appointment of personnel).

42 Pa.C.S. § 325.

Section 2301(a)(2) of the Judicial Code, referred to in section 325(e)(2), provides:

(a) *General rule.*—Subject to any inconsistent general rules or statutory provisions each:

(1) \* \* \*

(2) Court may appoint and fix the compensation and duties of necessary administrative staff and fix the compensation of personal staff.

42 Pa.C.S. § 2301(a)(2).

The Pennsylvania Rules of Judicial Administration, adopted by the Supreme Court under its Article V, section 10 general supervisory and administrative authority over the courts and justices of the peace, provides substance to the authority of president judges over magisterial district judges. Rule 605 of the Rules of Judicial Administration relating to supervision of magisterial district courts by president judges, provides, in pertinent part:

(A) The president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative authority over magisterial district courts within the judicial district.

(B) The president judge's administrative authority over magisterial district courts within the judicial district includes but is not limited to, and shall be governed by, the following:

\* \* \* \* \*

(6) *Temporary Assignments: Transfer of Cases*—In consultation with the affected magisterial district judge(s), the president judge may order temporary assignments of magisterial district judges or reassignment of cases or certain classes of cases to other magisterial districts within the judicial district or to central courts within the judicial district.

(7) *Conduct of Magisterial District Judges*—When a complaint is received with respect to the conduct of a magisterial district judge, the president judge may, in his or her discretion, review the matter with the affected magisterial district judge and take any action the president

judge deems appropriate to assure the efficient administration of justice including, where warranted, informing the appropriate disciplinary authority. Contemporaneous notice of any such action taken by the president judge resulting in reassignment of cases or otherwise affecting the duties of the magisterial district judge shall be given to the Supreme Court of Pennsylvania and the Court Administrator of Pennsylvania.

Pa.R.J.A. No. 605 (emphasis added).

The “Note” to Rule 605 explains its provisions, stating, in part:

The text of this rule is taken from Rule 17 of the Rules Governing Standards of Conduct for Magisterial District Judges, rescinded March 26, 2015, effective immediately.

This rule recognizes that magisterial district judges are the judicial officials charged with the legal and administrative responsibilities within their respective magisterial districts. Designed to further the efficient and effective administration of justice in the unified judicial system, this Rule contemplates a cooperative approach to the administration of the magisterial district courts, acknowledging judicial independence and the supervisory role of the president judges.

Rule 17 was amended in 2003 to more specifically outline the authority, powers, and responsibilities of the president judges with regard to management of the magisterial district judge system. In so doing, however, it was not intended that this be an exclusive list of powers and responsibilities, nor was it intended to limit the president judges’ authority to the areas listed. . . .

With regard to paragraph (B)(2), president judges or their representatives are encouraged to meet regularly with the magisterial district judges in the judicial district to foster and maintain open lines of communication regarding the management of the magisterial district judge system.

\* \* \* \* \*

Nothing in paragraph (B)(7) is intended to contradict or circumvent the constitutionally established process for the suspension, removal, and discipline of magisterial district judges. See Pa. Const. art. V § 18; see also 207 Pa. Code Part III (Judicial Conduct Board Rules of Procedure) and Part IV (Court of Judicial Discipline Rules of Procedure). President judges do not have authority to suspend or discipline magisterial district judges.

Pa.R.J.A. No. 605, Note (emphasis added). Other provisions of the Rules of Judicial Administration provide for the authority of president judges within their judicial districts. *See, e.g.*, Rule 701(C) (relating to request for assignment of additional magisterial district judges or judges); Rule 702 (relating to divisional assignments of judges); Rule 703 (relating to reports of judges); Rule 704 (relating to judicial leave); and Rule 706 (relating to determination or selection of Chief Justice and president and administrative judges).

Given the administrative and supervisory authority of president judges over the Judicial Officers of the judicial district, it is sometimes appropriate to inform the president judge of on-going Board matters so that the president judge may appropriately exercise his or her administrative or supervisory authority. For example, if a judge within the district is under investigation for alleged mistreatment of judicial staff, it would be appropriate for the Board to so inform the president judge so that he or she might make staff adjustments during the pendency of the Board’s investigation. There may be some circumstances in which adjustments to assignments of the judge under investigation may be warranted. Presently, there is no mechanism, in light of the non-public nature of the Board’s investigative activity, by which to properly communicate these matters to the president judge. While the Supreme Court has ultimate supervisory and administrative authority over all courts, in some matters, notice to the Supreme Court may be ineffectual to be able to deal with the immediate problem at hand.

[Pa.B. Doc. No. 16-737. Filed for public inspection April 29, 2016, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated March 16, 2016, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 15, 2016 for Compliance Group 2.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Bolcsak, James W.  
Lawrenceville, NJ

Caudill, David S.  
Brookfield, CT

Collins, John F.  
Mays Landing, NJ

Cusick, Robert William  
Haddonfield, NJ

D’Amico, Theresa Ann  
Miami Beach, FL

D’Antonio, Daniel Joseph  
Mickleton, NJ

Gimpel, William James  
Gibbstown, NJ

Greenfield, Tamara Lynn  
Fairview Heights, IL

Hammons Jr., Terrence Gordon  
Baton Rouge, LA

Hernandez, Kymberly D.  
Wilmington, DE  
McKenrick, Robert William  
Camarillo, CA  
Mikolashek, Kevin Jason  
Alexandria, VA  
Rimol, Andrew Charles  
Trenton, NJ  
Ruggieri, Kimberly Anne  
Vineland, NJ  
Shorter, Darryl Wayne  
Charlotte, NC

Wade, William Henry  
Chesapeake, VA  
Wallace, William Ian  
Haddonfield, NJ  
Wertzberger, Pina Sementa  
Marlton, NJ

SUZANNE E. PRICE,  
*Attorney Registrar*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 16-738. Filed for public inspection April 29, 2016, 9:00 a.m.]

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