

THE COURTS

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 33]

Formal Advisory Opinion 2019-1

Notice is hereby given that the Ethics Committee of the Pennsylvania Conference of State Trial Judges has adopted its Formal Advisory Opinion 2019-1 which is set forth as follows.

VITO P. GEROULO,
Chairperson
Ethics Committee of the
Pennsylvania Conference of State Trial Judges

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 33. CODE OF JUDICIAL CONDUCT

Subchapter B. FORMAL OPINIONS

§ 19-1. Ethical Considerations Regarding Court-Appointed Masters, Hearing Officers and Other Quasi-Judicial Officers.

The Ethics Committee of the Pennsylvania Conference of State Trial Judges (“the Ethics Committee”) provides guidance regarding ethical concerns to judicial officers subject to the Code of Judicial Conduct (“the Code”). Judges often inquire whether court-appointed masters, hearing officers, and other quasi-judicial officers are subject to the Code, as well as the ethical obligations judges have in supervising them. The Ethics Committee issues this Formal Advisory Opinion because these questions and concerns implicate the Code and are matters of general importance to the judiciary, particularly to those judges who have supervisory authority over court-appointed masters, hearing officers and other quasi-judicial officers.

Courts use masters, hearing officers, and other quasi-judicial officers in various ways. Some are full-time employees of a county; others are contracted by the county or the court to preside over certain cases or portions of cases. In some cases, they make findings of fact, conclusions of law, and a recommended disposition to which only exceptions are permitted;¹ in other cases, their decision is merely advisory.²

Masters, hearing officers, and other quasi-judicial officers are not subject to the Code. The Application section of the Code provides:

(1) The provisions of this Code shall apply to all judges as defined in paragraph (2) *infra*.

(2) A judge within the meaning of this Code is any one of the following judicial officers who perform judicial functions, whether or not a lawyer: all Supreme Court Justices; all Superior Court Judges; all Commonwealth Court Judges; all Common Pleas Court Judges; all judges of the Philadelphia Municipal Court, except for Traffic Division; and all senior judges as set forth in (3) *infra*.

Masters, hearing officers, and other quasi-judicial officers who are “county-level court employees who are under the supervision and authority of the President Judge” are subject to the Code of Conduct for Employees of the Unified Judicial System (“Employee Code”). A footnote to (2), *supra*, notes:

...there is a Code of Conduct for Employees of the Unified Judicial System (“Employee Code”). It applies to “employees” defined as, “Employees of the Unified Judicial System” and includes 1) all state-level court employees, and 2) all county-level court employees who are under the supervision and authority of the President Judge of a Judicial District of Pennsylvania, unless otherwise indicated by Supreme Court order or rule. . . .

The footnote further provides that:

...This Code and the Employee Code do not apply to nonemployee special masters, commissioners, and judges *pro tem*.

Thus, masters, hearing officers and other quasi-judicial officers used on a contract basis are not employees and are not subject to the Code or to the Employee Code.

Nonetheless, a judge who has supervisory “direction and control” over a master, hearing officer, or other quasi-judicial officer, whether that person is a court employee or a non-employee, has responsibility to ensure that the master, hearing officer, or other quasi-judicial employee acts in a manner that is consistent with the judge’s obligations under the Code.

Rule 2.12 of the Code provides:

Supervisory Duties.

(A) A judge shall require court staff, court officials, and others subject to the judge’s direction and control to act in a manner consistent with the judge’s obligations under this code.

A non-exclusive list of these obligations includes: complying with the law, Rule 1.1; promoting confidence in the judiciary, Rule 1.2; avoiding abuse of the prestige of one’s position, Rule 1.3; being impartial and fair, Rule 2.2; performing one’s duties without bias or prejudice, Rule 2.3; avoiding external influences on one’s conduct or decisions, Rule 2.4; performing one’s work competently and diligently, Rule 2.5; ensuring the right to be heard, Rule 2.6; requiring order and decorum in proceedings, Rule 2.8; avoiding *ex parte* communications, Rule 2.9; and disqualifying oneself when appropriate, Rule 2.11.

In short, while masters, hearing officers, and other quasi-judicial officers are not subject to the Code, some of them are subject to the Employee Code. In any event, judges who have supervisory “direction and control” over masters, hearing officers, and other quasi-judicial officers are subject to Rule 2.12 of the Code, which requires those judges to ensure that those masters, hearing officers and other quasi-judicial employees act in a manner that is consistent with the applicable obligations of the judge.

Although the Supreme Court designated the Ethics Committee as “the approved body to render advisory opinions regarding ethical concerns involving judges, other judicial officers, and judicial candidates subject to the Code of Judicial Conduct,” Code, Preamble (8), the Employee Code provides for state-level court employees having questions regarding the Employee Code to contact

¹ See, e.g., Pa.R.C.P. 1920-55-2.

² See, e.g., Pa.R.C.P. 1920-55-3.

their employing judge, their employing court’s Executive Administrator, or AOPC Human Resources, and for county-level court employees to contact their President Judge or District Court Administrator.

The “Rule of Reliance”

This Formal Advisory Opinion is intended to provide judges with broad guidance regarding an issue of general concern among Pennsylvania’s judges. Because this Formal Advisory Opinion does not address the specific facts of a particular case, a judge does not receive the benefit of the “rule of reliance” by reviewing the Committee’s general advice. If a judge has questions concerning the

application of these guidelines, the judge should make a written request for advice from a member of the Committee, ordinarily from the representative for the zone in which the judge sits. The Code provides that, although such opinions are not *per se* binding on the Judicial Conduct Board, the Court of Judicial Discipline, or the Supreme Court of Pennsylvania, action taken in reliance thereon shall be considered in determining whether discipline should be recommended or imposed. CODE, PREAMBLE (8).

[Pa.B. Doc. No. 20-1. Filed for public inspection January 3, 2020, 9:00 a.m.]

SUPREME COURT

Duty Assignment Schedule for Emergency Petitions in the Year 2020; No. 527 Judicial Administration Doc.

Order

Per Curiam:

And Now, this 11th day of December, 2019, the emergency duty assignment for the year 2020, is herewith adopted.

January	Justice Sallie Updyke Mundy Justice David Wecht	(Eastern District) (Western District)
February	Justice Max Baer Justice Kevin Dougherty	(Eastern District) (Western District)
March	Justice Christine Donohue Justice Debra Todd	(Eastern District) (Western District)
April	Justice David Wecht Justice Debra Todd	(Eastern District) (Western District)
May	Justice Kevin Dougherty Justice Max Baer	(Eastern District) (Western District)
June	Justice Sallie Updyke Mundy Justice Christine Donohue	(Eastern District) (Western District)
July	Justice Debra Todd Justice David Wecht	(Eastern District) (Western District)
August	Justice Max Baer Justice Kevin Dougherty	(Eastern District) (Western District)
September	Justice Christine Donohue Justice Sallie Updyke Mundy	(Eastern District) (Western District)
October	Justice David Wecht Justice Debra Todd	(Eastern District) (Western District)
November	Justice Kevin Dougherty Justice Max Baer	(Eastern District) (Western District)
December	Justice Sallie Updyke Mundy Justice Christine Donohue	(Eastern District) (Western District)

[Pa.B. Doc. No. 20-2. Filed for public inspection January 3, 2020, 9:00 a.m.]

SUPREME COURT

Schedule of Holidays for Year 2021 for Staffs of the Appellate Courts and the Administrative Office of Pennsylvania Courts; No. 526 Judicial Administration Doc.

Order

Per Curiam:

And Now, this 11th day of December, 2019, it is hereby ordered that the following paid holidays for calendar year 2021 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

January 01, 2021	New Year's Day
January 18, 2021	Martin Luther King, Jr. Day
February 15, 2021	Presidents' Day
April 02, 2021	Good Friday
May 31, 2021	Memorial Day
July 05, 2021	Independence Day Observed
September 06, 2021	Labor Day
October 11, 2021	Columbus Day
November 02, 2021	Election Day**
November 11, 2021	Veterans' Day
November 25, 2021	Thanksgiving Day
November 26, 2021	Day after Thanksgiving
December 24, 2021	Christmas Day Observed
December 31, 2021	New Year's Day Observed

**AOPC only; Appellate courts will be open.

[Pa.B. Doc. No. 20-3. Filed for public inspection January 3, 2020, 9:00 a.m.]

SUPREME COURT

Sessions of the Supreme Court of Pennsylvania for the Year 2021; No. 525 Judicial Administration Doc.

Order

Per Curiam:

And Now, this 11th day of December, 2019, it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2021 as follows:

Philadelphia (Administrative Session)	February 2nd
Philadelphia	March 8th through March 12th
Harrisburg (Administrative Session)	March 23rd
Pittsburgh	April 12th through April 16th
Harrisburg	May 17th through May 21st
Pittsburgh (Administrative Session)	June 8th
Philadelphia	September 20th through September 24th
Pittsburgh	October 25th through October 29th
Harrisburg	December 6th through December 9th

[Pa.B. Doc. No. 20-4. Filed for public inspection January 3, 2020, 9:00 a.m.]