

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

- Rule
13. Interim Suspension.
14. Special Notice to the Supreme Court, the Court of Judicial Discipline, or a
President Judge.

Source

The provisions of this Chapter 105 adopted March 20, 1995, effective March 20, 1995, 25 Pa.B. 1404, unless otherwise noted.

Rule 13. Interim Suspension.

(A) The Board may direct Chief Counsel to file with the Court a motion for the interim suspension of a Judicial Officer, with or without pay, following the filing of a Board Complaint or when an indictment or information charging the Judicial Officer with a felony has been filed.

(B) The motion for interim suspension shall be promptly served upon the Judicial Officer and the matter shall proceed as provided in the rules of procedure governing the Court of Judicial Discipline.

Rule 14. Special Notice to the Supreme Court, 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.

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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

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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.

Source

The provisions of this Rule 14 amended April 4, 2016, effective immediately, 46 Pa.B. 2167. Immediately preceding text appears at serial page (276541).

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