

## **RULE 1:41. Municipal Court Administrator Certification Program**

### **1:41-1. Municipal Court Administrator Certification Board**

**(a) Appointment.** The Supreme Court, consistent with N.J.S.A. 2B:12-11, shall appoint a Municipal Court Administrator Certification Board (Board) consisting of ten members.

**(b) Ex Officio Members.** Ex officio members of the Board shall include a member of the Conference of Assignment Judges, the Chair of the Conference of Presiding Judges-Municipal Courts, the Chair of the Conference of Municipal Division Managers, and the President of the New Jersey Association of Municipal Court Administrators. The member representing the Conference of Assignment Judges shall be designated by the Chief Justice and shall serve a two-year term. The remaining ex officio members shall serve during the term of their office; however, each may select, with the consent of the Chair, a designee to serve in their place on the Board.

**(c) Members.** Except for ex officio members, members of the Board shall be appointed for staggered three-year terms, with the terms of two members expiring each year on December 31. No member who has served four consecutive three year terms shall be eligible for immediate reappointment. Members appointed to fill a vacancy shall serve the balance of the unexpired term.

**(d) Chair and Vice-Chair.** The Supreme Court annually shall designate a Chair and Vice-Chair from among the members of the Board.

**(e) Secretary and Staff.** The Administrative Director of the Courts shall designate a staff person from the Administrative Office of the Courts to serve as Board Secretary, who shall be responsible for the day-to-day coordination of Board operations.

**(f) Regulations.** Subject to the prior approval of the Supreme Court, the Board shall promulgate regulations to implement these Rules.

**(g) Fees and Fund.** Any fees authorized by these Rules or by regulation shall be payable to the Board. Any such fees shall be deposited into a dedicated fund to support the operation of the Program.

Note: Adopted June 15, 2007 to be effective September 1, 2007; paragraphs (a) and (b) amended September 13, 2011 to be effective immediately.

### **1:41-2. Certification and Renewal; Lapsing of Certification**

**(a) Certification; Continuing Education Requirement; Certification Renewal.** A certification candidate who has been examined and found qualified for certification by the Board shall be recommended to the Supreme Court for designation as a Certified Municipal Court Administrator, abbreviated as "C.M.C.A." A Certified Municipal Court Administrator may use the title during good behavior in accordance with law and the Rules of Court. A Certified Municipal Court Administrator must satisfy continuing education requirements as established by the Supreme Court and the Board. Pursuant to regulations of the Board, a Certified Municipal Court Administrator must apply for recertification every three years.

**(b) Lapsing of Certification.** A Certified Municipal Court Administrator who allows his or her certification to lapse by not paying the required fees or satisfying the continuing

education requirements shall be carried on the Board's records as not in good standing and may not, during that period, use the title "Certified Municipal Court Administrator" or its abbreviation "C.M.C.A."

Note: Adopted June 15, 2007 to be effective September 1, 2007.

### **1:41-3. Accreditation of Non-Certified Municipal Court Directors, Municipal Court Administrators, and Deputy Municipal Court Administrators**

**(a) Accreditation; Conditional Accreditation.** All non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators must be either conditionally accredited or accredited by the Board.

**(b) Completion of Education Requirements as Precondition to Conditional Accreditation and Accreditation.** Non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall be conditionally accredited or accredited after successfully completing the education requirements as established by the Supreme Court and the Board.

**(c) Time Requirements for Obtaining Conditional Accreditation and Accreditation for Current Employees.** All current non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain conditional accreditation by March 13, 2012, six months after the effective date of this rule. All non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain full accreditation by September 13, 2014, three years after the effective date of this rule.

**(d) Time Requirements for Obtaining Conditional Accreditation and Accreditation for Newly Appointed Employees.** All newly appointed non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain conditional accreditation within six months of the date of appointment. All newly appointed non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain full accreditation within three years of the date of appointment.

**(e) Consequences of Failure to Meet Time Requirements for Obtaining Certification, Conditional Accreditation, or Accreditation.** A non-certified municipal court director, municipal court administrator, or deputy municipal court administrator, who fails to obtain certification, conditional accreditation, or accreditation, within the time frames provided by this rule and the Board's regulations, will be ineligible to remain in that title. The Board may grant an extension of time upon a showing of good cause.

**(f) Performance of Quasi-Judicial Duties.** Only certified, conditionally accredited, or accredited municipal court administrators or deputy municipal court administrators may perform quasi-judicial duties in a court, if so authorized by the municipal court judge.

**(g) Performance of Managerial Duties - Generally.** Only certified, conditionally accredited, or accredited municipal court directors, municipal court administrators, and deputy municipal court administrators may perform managerial duties in a court, except as provided in R. 1:41-3(h).

**(h) Performance of Managerial Duties by New Appointees.** Newly appointed municipal court directors, municipal court administrators, and deputy municipal court administrators may perform managerial duties in a court without being certified,

conditionally accredited or accredited, provided that they satisfy the conditional accreditation or accreditation education requirements within the time frames set forth under R. 1:41-3(c) and (d).

**Note:** New R. 1:41-3 adopted (and former R. 1:41-3 redesignated as R. 1:41-4) September 13, 2011 to be effective immediately.

#### **1:41-4. Revocation or Suspension of Certification or Accreditation**

**(a) Grounds for Revocation or Suspension.** Certification, conditional accreditation, or accreditation may be revoked or suspended by the Board for a conviction of a crime or disorderly or petty disorderly persons offense, for a violation of the "Code of Conduct for Judiciary Employees," or for dishonest practices, including conduct unbecoming a public employee or failure to perform, or neglect of, the employee's duties.

**(b) Assignment Judge's Power to Suspend.** Pending action by the Board pursuant to R. 1:41-4(a), the Assignment Judge of the vicinage may immediately temporarily suspend certification, conditional accreditation, or accreditation where the employee has been charged with or there are credible allegations that he or she has committed a serious offense or has engaged in serious misconduct. The Assignment Judge shall have the authority to prohibit the suspended employee from working in the court in any capacity during the period of suspension.

**(c) Investigatory Powers of the Board.** In the conduct of investigations and hearing proceedings, the Board may: (1) examine relevant books and records, and (2) take depositions of necessary witnesses. The Board also may request that the Assignment Judge of the involved vicinage issue subpoenas for the attendance of witnesses and for the production of papers, books, accounts, documents and testimony, or any other relevant records or material.

**(d) Cooperation.** Certified, conditionally accredited, or accredited municipal court employees, attorneys, judges, and other employees of the judicial system of this State shall cooperate with and give reasonable assistance and information to the Board in connection with any investigations or proceedings conducted by or on behalf of the Board.

**(e) Notice and Opportunity to Reply; Hearings.** Upon completion of an investigation, if there is cause to proceed, the Board shall notify the municipal court employee under investigation (respondent) in writing of the substance of the allegation(s) and shall afford respondent an opportunity to reply in writing within a specified time. In all cases that may result in suspension or revocation of certification, conditional accreditation, or accreditation, the Board shall conduct hearings pursuant to the Program's regulations. All testimony shall be given under oath. The Rules of Evidence shall not apply.

**(f) Prior Determination.** Whenever a certified, conditionally accredited, or accredited municipal court employee has been found guilty of an offense or infraction related to misconduct as defined in R. 1:41-4(a), a copy of the judgment of conviction, decision, opinion, or order in that matter shall be conclusive evidence of the facts established therein. In a hearing conducted by the Board in such situation, the sole issue to be determined by the Board thus shall be the extent of the sanction(s) to be imposed by the Board. Respondent may introduce relevant evidence in mitigation that is not inconsistent with the essential facts established in the judgment of conviction, decision, opinion, or order.

**(g) Burden of Proof .** In proceedings under this Rule, the Board shall have the burden of proof in respect of alleged misconduct. The respondent shall have the burden of proving all affirmative defenses, constitutional challenges, and mitigating circumstances, if any. The standard of proof for the Board and the respondent shall be clear and convincing evidence.

**(h) Final Decision.** In proceedings under this rule, the Board shall issue a written Final Decision, which shall include the sanction(s), if any, to be imposed.

**(i) Effect of Revocation and Suspension.** Upon revocation or during any period of suspension, respondent shall not hold himself or herself before the public and the courts of this State as being certified, conditionally accredited or accredited. Nor shall a certified municipal court administrator whose certification has been revoked or suspended use the title C.M.C.A. in any official or unofficial capacity. No employee whose certification, conditional accreditation, or accreditation has been revoked or suspended shall serve in the title of municipal court director, municipal court administrator, or deputy municipal court administrator after revocation or during the suspension.

**(j) Notification of Revocation or Suspension.** On the entry of an order of revocation or suspension, the Board shall notify respondent's employer, municipal court judge, Assignment Judge and any other agencies as provided by the regulations of the Board.

Note: Adopted as R. 1:41-3 June 15, 2007 to be effective September 1, 2007; renumbered as R. 1:41-4, caption amended, paragraph (a) amended, new paragraph (b) adopted, former paragraphs (b), (c), (d), (e), and (h) amended and redesignated as (c), (d), (e), (f), and (i), and former paragraphs (f), (g) and (i) redesignated as (g), (h) and (j) September 13, 2011 to be effective immediately.

## **1:41-5. Review of Action of Board**

**(a) Review of Action of Board.** Within 20 days after the date of the Board's Final Decision with respect to revocation or suspension, a respondent may seek review by the Supreme Court by filing an original Notice of Petition for Review ("Notice") with the Clerk of the Supreme Court and serving a copy of that Notice on the Chair of the Board. The Notice shall set forth respondent's name and address and, if represented, the name and address of counsel. The Notice shall identify the action of the Board sought to be reviewed and the basis for the requested review. The Notice shall be accompanied by the required filing fee, but no filing fees shall be required if the respondent is a party exempted from filing fees by Rule 2:7-1.

**(b) Respondent's Petition for Review.** A petition for review shall be in the form of a letter brief, conforming to the applicable provisions of Rules 2:6-1, 2:6-2(b) and 2:6-10 and not exceeding 20 pages typed, exclusive of table of contents and appendix. It shall also contain a certification by respondent or counsel for respondent that the petition presents a substantial question and is filed in good faith and not for purposes of delay.

**(c) Service of Petition.** Within ten days after filing of the Notice, two copies of the petition shall be served on the Chair of the Board and nine copies shall be filed with the Clerk of the Supreme Court.

**(d) Response to Petition.** The Board shall, within 15 days of the service of the petition, serve two copies of a letter brief responding to the petition of respondent and shall file nine copies with the Clerk of the Supreme Court. The letter brief shall conform to the applicable provisions of Rules 2:6-1, 2:6-2 and 2:6-10, and shall not exceed 20 pages typed, exclusive of table of contents and appendix. Within 10 days of such service, respondent may serve on the Chair of the Board two copies and nine file copies with the

Clerk of the Supreme Court of a reply brief not exceeding six pages typed, exclusive of table of contents or appendix.

**(e) Denial/Grant of Petition; Record; Transcripts.** If the Supreme Court grants the petition, the record on review shall be the documents, transcripts and briefs, as provided in the Board's regulations. Transcripts may be requested by respondent or by the Board, with the requestor bearing the cost of the transcript.

**(f) Final Determination.** The Court's final determination of a petition for review may be either by written opinion or by order and shall provide for such final disposition as is appropriate.

Note: Adopted as R. 1:41-4 June 15, 2007 to be effective September 1, 2007; renumbered as R. 1:41-5 September 13, 2011 to be effective immediately.

### **1:41-6. Stay Following Final Determination of the Board**

The Board may stay its revocation or suspension of certification, conditional accreditation, or accreditation on appropriate terms if respondent files a notice of petition for review to the Supreme Court. If the Board denies respondent's request for a stay, it shall state its reasons for such denial and the application may be renewed before the Supreme Court, if the Court grants the petition for review.

Note: New R. 1:41-6 adopted (and former R. 1:41-6 redesignated as R. 1:41-8) September 13, 2011 to be effective immediately.

### **1:41-7. Confidentiality**

The records of the Board are confidential to the extent provided by Rule 1:38, these Rules, or the Board's regulations.

Note: Adopted as R. 1:41-5 June 15, 2007 to be effective September 1, 2007; renumbered as R. 1:41-7 September 13, 2011 to be effective immediately.

### **1:41-8. Immunity**

Members of the Board and their lawfully appointed designees and staff shall be absolutely immune from suit, whether legal or equitable in nature, based on their respective conduct in performing their official duties. The Supreme Court shall request the Attorney General to represent the Board and its staff in all civil or criminal litigation in state or federal courts.

Note: Adopted as R. 1:41-6 June 15, 2007 to be effective September 1, 2007; renumbered as R. 1:41-8 September 13, 2011 to be effective immediately.