

RULE 2:15. Advisory Committee On Judicial Conduct

2:15-1. Establishment of Committee

To implement N.J.S.A. 2B:2A-10, providing for suspension prior to hearing, and to assist otherwise in fulfilling the administrative responsibilities of the Court, the Court establishes a committee of this Court to be known as Advisory Committee on Judicial Conduct.

Note: Adopted July 23, 1974, effective immediately; amended February 3, 1997 to be effective March 1, 1997.

2:15-2. Appointment and Membership

The Committee shall consist of nine members. The Court shall designate one member to serve as Chair and another member to serve as Vice Chair. At least two members shall be retired Justices or Judges of the Supreme Court or Superior Court, no fewer than three members shall be members of the Bar, and no more than four members shall be members of the public who do not hold public office of any nature. Members shall be appointed by the Supreme Court for a term of three years and may be reappointed for such additional term or terms as the Court shall determine. Membership on the Committee shall terminate if a member is appointed or elected to public office or to any position considered by the Court to be incompatible with such service. All appointments to fill vacancies shall be for the unexpired term.

Note: Adopted July 23, 1974, effective immediately; amended July 2, 1984 effective immediately; amended June 28, 1996 to be effective September 1, 1996; amended February 3, 1997 to be effective March 1, 1997.

2:15-3. Quorum and Hearing Panels

- **(a)** A quorum shall consist of five members of the Committee. No action of the Committee shall be valid unless concurred in by a majority of its membership, provided, however, that if the Committee finds sufficient cause therefor and recommends to the Supreme Court the institution of formal proceedings, which may lead to reprimand, censure, suspension, or removal of a Judge, such recommendation shall be made only on the affirmative vote of five members of the Committee who have considered the record and at least three of whom were present at any hearing at which oral testimony was produced.
- **(b)** Whenever the Committee considers it necessary or expedient to do so, the Chair of the Committee may establish and designate a three-member panel to conduct any investigation or any hearing contemplated by these Rules. At the conclusion thereof such panel shall make a report or recommendation to the Committee, which shall review the report or recommendation and act thereon as set forth in (a) of this Rule.

Note: Adopted July 23, 1974, effective immediately; paragraph (b) amended June 28, 1996 to be effective September 1, 1996; paragraphs (a) and (b) amended February 3, 1997 to be effective March 1, 1997.

2:15-4. Administration and Principal Office

- **(a)** The Administrative Director of the Courts shall be Executive Secretary of the Committee, and the principal office of the Committee shall be located at the Richard J. Hughes Justice Complex, Trenton, New Jersey.
- **(b)** The Administrative Office of the Courts shall provide the Committee with administrative, legal, investigative, and clerical support, and shall assign a staff member to serve as Secretary to the Committee. The Secretary shall be responsible for day-to-day coordination of staff support, under the supervision of the Administrative Director.

- **(c)** All records of the Committee shall be filed and maintained in such principal office of the Committee. All papers filed with and proceedings before the Committee shall be confidential except as otherwise provided in these Rules.

Note: Adopted July 23, 1974, effective immediately; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraphs (b) and (c) amended February 3, 1997 to be effective March 1, 1997.

2:15-5. Reimbursement

The Committee members shall serve without compensation, except that they shall be allowed their expenses for travel or other incidental expenses necessarily incurred in the performance of their services.

Note: Adopted July 23, 1974, effective immediately.

2:15-6. Investigations; Service of Subpoenas and Orders

- **(a)** In the conduct of investigations and hearing proceedings of any nature, the Committee, the Secretary to the Committee, or individual members may (1) administer oaths, (2) order the inspection of books and records, (3) take depositions of necessary witnesses, (4) issue subpoenas for the attendance of witnesses and for the production of papers, books, accounts, documents, and testimony, or any other records or material that may be relevant to any such investigation or formal proceeding.
- **(b)** A respondent may, with the prior approval of the Supreme Court, take depositions of witnesses who are unavailable to testify before the Committee.
- **(c)** The Sheriff of the appropriate County or such person as may be designated by the Committee shall, when necessary in the judgment of the Committee, serve on the persons involved subpoenas or orders for the taking of depositions, for the production of items described in subparagraph (a) above, or for the attendance at investigations and at hearings (formal or informal).

Note: Adopted July 23, 1974, effective immediately. Paragraph (a) amended July 22, 1983 to be effective September 12, 1983; paragraph (a) amended, former paragraph (b) amended and redesignated as paragraph (c), new paragraph (b) adopted February 3, 1997 to be effective March 1, 1997.

2:15-7. Cooperation by Attorneys and Court Personnel

Attorneys admitted to practice law in this State, judges, justices, officials, clerks, and other employees of the judicial system of this State shall cooperate with and give reasonable assistance and information to the Committee, the Secretary, and any authorized representative thereof, in connection with any investigations by or proceedings of the Committee.

Note: Adopted July 23, 1974, effective immediately; caption and text amended February 3, 1997 to be effective March 1, 1997.

2:15-8. Initial Review by Committee

- (a) The Committee shall review any written statement, criticism, or grievance that is directed to the Committee and that contains allegations to the effect that a judge of the Superior Court, Surrogate's Court, Tax Court, or Municipal Court is guilty of:
 - (1) misconduct in office,
 - (2) willful failure to perform judicial duties,
 - (3) incompetence,
 - (4) intemperate conduct,
 - (5) engaging in partisan politics, or

- (6) conduct prejudicial to the administration of justice that brings the judicial office into disrepute.
- (b) The Committee shall also review allegations that any such judge may be suffering from a mental or physical disability that interferes with the performance of judicial duties.
- (c) On referral to the Committee by the Supreme Court, the Committee shall conduct such review concerning any Justice of the Supreme Court and proceed thereafter in accordance with these Rules subject to the terms of the referral.
- (d) The Committee may review on its own motion any matters as set forth in (a) above in the absence of a written statement, criticism, or grievance.
- (e) If the Committee determines that it requires additional information, it shall conduct a preliminary investigation.
- (f) If the Committee determines that the allegations under review relate to an action or other matter that is properly the subject of an appeal, or if the Committee determines that there is not sufficient cause to warrant a preliminary investigation, it shall dismiss the matter and notify the person who submitted the statement, criticism, or grievance.
- (g) In exceptional circumstances, the Chair or Vice Chair may authorize the commencement of a preliminary investigation.

Note: Adopted July 23, 1974, effective immediately; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a) amended July 26, 1984 to be effective September 10, 1984; paragraphs (a)(2), (a)(7) and (c) amended July 18, 1990 to be effective September 4, 1990; caption amended, paragraph (a) amended, paragraph (a)(7) amended and redesignated as paragraph (b), last sentence of paragraph (a) amended and redesignated as paragraph (c), former paragraph (b) amended and redesignated as paragraph (d), paragraph (c) amended and redesignated as paragraph (f), paragraphs (e) and (g) adopted February 3, 1997 to be effective March 1, 1997.

2:15-9. Preliminary Investigation; Disclosure to Judge

In the course of its preliminary investigation, the Committee, in its discretion, may inform the judge of the allegations and of the identity of the person who is the source of the allegations and may request the judge to submit a written response to the allegations or to be interviewed or deposed by the Committee or by such person or persons as the Committee may designate.

Note: Adopted July 23, 1974, effective immediately; amended July 13, 1994 to be effective September 1, 1994; caption and text amended February 3, 1997 to be effective March 1, 1997.

2:15-10. Action on Completion of Preliminary Investigation

On completion of its preliminary investigation, the Committee may:

- **(a)** if it finds that the allegations are without merit, dismiss them and so inform the person who brought the allegations before the Committee, as well as the judge if the Committee so desires; or
- **(b)** initiate formal proceedings pursuant to Rule 2:15-12; or
- **(c)** if it finds conduct by the judge that does not constitute conduct for which there is probable cause that public discipline should be imposed but that is conduct of the type set forth in Rule 2:15-8(a) or other conduct that would reflect unfavorably on the judicial office if it were to become habitual or more substantial in character,
 - **(1)** communicate to the judge its private censure, reprimand, admonition, caution, or guidance concerning the conduct in question and so notify the person who brought the allegations before the Committee, with a copy of the communication being sent to the judge's Assignment Judge or, if applicable, the Presiding Judge of the Tax Court or the Presiding Judge for Administration of the Appellate Division. In the exercise of his or her discretion, an Assignment Judge may forward a copy of the communication to the judge's Superior Court or Municipal Court Presiding Judge, as may be applicable; or

- **(2)** require the judge to appear for an informal conference pursuant to Rule 2:15-11.

Note: Adopted July 23, 1974, effective immediately; paragraphs (b) and (c) amended July 13, 1994 to be effective September 1, 1994; caption and text of former Rule 2:15-10 deleted and new caption and text adopted February 3, 1997 to be effective March 1, 1997; subparagraph (c)(1) amended July 27, 2006 to be effective September 1, 2006.

2:15-11. Informal Conference

At any time while a matter is pending before it, the Committee may conduct an informal conference with the judge and, in the discretion of the Committee, with the grievant.

- **(a)** At an informal conference, the judge has the right to be represented by an attorney retained at the expense of the judge.
- **(b)** All informal conferences shall be recorded by a qualified shorthand reporter, a video recording device, or a sound recording device. The Committee shall, on request, provide to the judge without charge a copy of any videotape that is made or transcript if one is prepared.
- **(c)** If, after holding an informal conference with a judge, the Committee is satisfied that further proceedings are not warranted, the Committee shall dispose of the matter consistent with Rule 2:15-10(a) or (c).
- **(d)** If, after holding an informal conference with a judge, the Committee determines that further proceedings are warranted, the Committee shall institute formal proceedings pursuant to Rule 2:15-12.

Note: Adopted July 23, 1974, effective immediately; paragraph (e) deleted and caption amended July 22, 1983 to be effective September 12, 1983; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; caption and introductory text amended, paragraphs (a), (b) and (c) deleted and new paragraphs (a), (c) and (d) adopted, and paragraph (d) amended and redesignated as paragraph (b) February 3, 1997 to be effective March 1, 1997.

2:15-12. Institution of Formal Proceedings Before the Committee

- **(a)** Whenever the Committee concludes from its preliminary investigation that probable cause exists for the imposition of public discipline, the Committee shall issue a formal complaint and shall serve it on the judge.
- **(b)** The formal complaint shall issue over the signature of the Secretary to the Committee and shall give notice to the judge of the specific nature of the charges and of such facts as are then known to the Committee on which the charges are based.
- **(c)** Within twenty days of service of the formal complaint on the judge, the judge shall file an answer to the charges with the Committee at its principal office. For good cause, the Committee may extend the time within which the judge may file an answer.
- **(d)** After receiving the judge's answer or after the expiration of the time within which an answer is due, the Committee shall schedule a formal hearing and shall immediately notify the judge of the time and place at which the hearing will be held.

Note: Adopted July 23, 1974, effective immediately; amended July 22, 1983 to be effective September 12, 1983; amended July 13, 1994 to be effective September 1, 1994; caption amended, text of former Rule 2:15-12 amended and incorporated into paragraphs (a) and (b) of Rule 2:15-15, and new paragraphs (a), (b), (c) and (d) adopted February 3, 1997 to be effective March 1, 1997.

2:15-13. Discovery

- **(a)** Subsequent to the filing of an answer by the judge, the Committee shall make available to the judge all of the factual information in the Committee's file that is related to the complaint.

- **(b)** The Committee may request and shall thereupon receive reciprocal discovery from the judge.

Note: Adopted July 23, 1974, effective immediately; amended July 24, 1978 to be effective September 11, 1978; amended July 13, 1994 to be effective September 1, 1994; caption deleted and new caption adopted, text of former Rule 2:15-13 amended and incorporated into Rule 2:15-16, and new paragraphs (a) and (b) adopted February 3, 1997 to be effective March 1, 1997.

2:15-14. Conduct of Formal Hearing

- **(a)** At a formal hearing, the judge has the right to be represented by an attorney retained at the expense of the judge.
- **(b)** All testimony taken at a formal hearing shall be under oath.
- **(c)** All formal hearings shall be recorded by a qualified shorthand reporter, a video recording device, or a sound recording device. The Committee shall provide a copy of any videotapes or transcripts to the judge without charge.
- **(d)** The Secretary, or such other attorney as may be designated by the Committee, shall present to the Committee the evidence supporting the charges concerning the judge. The judge or the judge's attorney shall present any evidence in defense or explanation of the charges. No other person, except the members of the Committee, shall participate in a formal hearing other than as a witness giving testimony under oath.
- **(e)** The Rules of Evidence are not binding on the Committee.
- **(f)** If the judge refuses to testify at the hearing, the Committee may draw any reasonable inference, under the circumstances of the matter, from such refusal to testify.
- **(g)** At the conclusion of the formal hearing, the Committee may provide for post-hearing briefs.
- **(h)** At the conclusion of a formal hearing, with proper notice to the judge, the Committee may order that the charges set forth in the formal complaint be amended to conform to the proofs presented at the hearing.

Note: Adopted July 23, 1974, effective immediately; amended July 22, 1983 to be effective September 12, 1983; caption deleted and new caption adopted, text of former Rule 2:15-14 amended and incorporated into Rule 2:15-17, and new paragraphs (a) through (h) adopted February 3, 1997 to be effective March 1, 1997.

2:15-15. Decision of the Committee; Transmittal of the Record

- **(a)** If the Committee determines after a formal hearing that the charges against the judge have been proved by clear and convincing evidence and that a recommendation should be made to the Supreme Court for public reprimand, censure, suspension, or removal, it shall promptly file with the Clerk of the Supreme Court a Presentment setting forth its findings and its recommendation.
- **(b)** If the Committee determines after a formal hearing that the charges against the judge have not been proved by clear and convincing evidence or that the conduct does not warrant a recommendation for public reprimand, censure, suspension, or removal by the Supreme Court, it shall recommend to the Supreme Court the dismissal of the complaint with or without private discipline.
- **(c)** When filing the Committee's decisions pursuant to this Rule, the Secretary shall certify the record before the Committee and shall file copies thereof with the Court. In addition, the Secretary shall forthwith serve on the judge and the grievant notice of its action and two copies of its decision and of the certification of the Committee's record as filed with the Supreme Court.

Note: Adopted July 23, 1974, effective immediately; amended July 13, 1994 to be effective September 1, 1994; caption deleted and new caption adopted, text of former Rule 2:15-15 amended and incorporated into paragraph (a) of Rule 2:15-17, text of former Rule 2:15-12 amended and incorporated into Rule 2:15-15 as paragraphs (a) and (c) and new paragraph (b) adopted February 3, 1997 to be effective March 1, 1997.

2:15-16. Motion by Judge

Within seven days of the receipt of notice of a Presentment by the Committee, the judge may move in writing before the Supreme Court, on ten days' notice to the Committee and to the Attorney General, or to such other attorney as may be designated to prosecute the matter pursuant to Rule 2:15-18, for an order dismissing or modifying the recommendation set forth in the Committee's Presentment.

Note: Adopted July 23, 1974, effective immediately; caption deleted and new caption adopted, text of former Rule 2:15-16 amended and incorporated into paragraph (b) of Rule 2:15-22, text of former Rule 2:15-13 amended and incorporated into Rule 2:15-16 February 3, 1997 to be effective March 1, 1997.

2:15-17. Action by the Supreme Court

- **(a) Temporary Suspension.** The Supreme Court may order the immediate temporary suspension of a judge of the Superior Court, Tax Court, Municipal Court, or Surrogate's Court, with or without pay, from his or her judicial office or from the exercise of his or her judicial duties if the Court finds probable cause to conclude that the judge has violated the Code of Judicial Conduct, case law, or other authority and that the judge's continued service while proceedings are pending before the Committee poses a substantial threat of serious harm to the administration of justice.
- **(b) Presentments.** On review of a Presentment the Supreme Court shall:
 - **(1)** issue or order issued a complaint for removal pursuant to Rule 2:14-1; or
 - **(2)** require the judge to show cause why a sanction less than removal should not be imposed.

Note: Adopted July 23, 1974, effective immediately; caption deleted and new caption adopted, text of former Rule 2:15-17 amended and incorporated into Rule 2:15-21, text of former Rule 2:15-14 amended and incorporated into Rule 2:15-17 February 3, 1997 to be effective March 1, 1997; new paragraph (a) adopted and existing text of the Rule amended and designated as paragraph (b) July 12, 2002 to be effective September 3, 2002.

2:15-18. Prosecution of Removal Proceedings and of Other Proceedings Before the Supreme Court

- **(a)** All phases of removal proceedings held pursuant to N.J.S.A. 2B:2A-1 to -10 shall be prosecuted by the Attorney General or a representative of the Attorney General unless the Court shall specially designate an attorney for such purpose (see N.J.S.A. 2B:2A-4).
- **(b)** All proceedings in matters other than removal proceedings shall be prosecuted by the Secretary to the Committee or by such other attorney as the Committee may designate for such purpose.

Note: Adopted July 16, 1981 to be effective September 14, 1981; amended July 13, 1994 to be effective September 1, 1994; caption deleted and new caption adopted, text of former Rule 2:15-18 amended and incorporated into paragraph (a) of Rule 2:15-23, text of former Rule 2:15-15 amended and incorporated into paragraph (a) of Rule 2:15-18, new paragraph (b) adopted February 3, 1997 to be effective March 1, 1997.

2:15-19. Challenges to the Proceedings

Constitutional challenges to the proceedings shall be raised in response to notice received under Rules 2:15-9, 2:15-10, 2:15-11, or 2:15-12. They shall be preserved pending Supreme Court review of the matter on the merits.

Interlocutory relief may be had only to prevent irreparable injury. Motion papers shall conform to Rule 2:8-1. If leave to appeal is granted, the record below may, in the discretion of the Court, be supplemented by the filing of briefs and oral argument.

Note: Adopted July 16, 1981 to be effective September 14, 1981; amended February 3, 1997 to be effective March 1, 1997.

2:15-20. Confidentiality

- **(a)** Except as provided in paragraphs (b) and (c) below and in Rule 2:15-25 (Referral for Administrative Action), the record before the Committee shall be confidential and shall not be available to any person except in the proper discharge of official duties. In all circumstances, prehearing conferences, deliberations of the Committee, and information subject to a protective order shall remain confidential.
- **(b)** If the Committee files a formal complaint against the judge, the complaint and all further proceedings thereon shall be public except that the Committee may apply to the Supreme Court for permission to retain confidentiality in a matter involving special circumstances, such as when the Committee determines that the privacy interests of a witness or other person connected with the matter outweigh the public interest in the matter.
- **(c)** If a judge who is the subject of a grievance requests it, the charge, the proceeding of the Committee thereon, and the action of the Committee with respect to the charge shall be made public.

Note: Adopted July 22, 1983 to be effective September 12, 1983; amended July 13, 1994 to be effective September 1, 1994; text amended and redesignated as paragraphs (a) and (c), paragraph (b) adopted February 3, 1997 to be effective March 1, 1997.

2:15-21. Costs

No award of costs shall be made in any proceeding before the Committee or the Supreme Court unless specifically ordered by the Supreme Court for good cause shown.

Note: Former Rule 2:15-17 amended and redesignated as Rule 2:15-21 February 3, 1997 to be effective March 1, 1997.

2:15-22. Immunity From Suit

- (a) The members and staff of the Committee shall be absolutely immune from suit, whether legal or equitable in nature, for any conduct in the performance of their official duties.
- (b) Witnesses and persons who bring to the Committee allegations concerning a judge shall be absolutely immune from suit, whether legal or equitable in nature, for all communications to the Committee or to its staff and for any testimony given at proceedings before the Committee, a three-judge panel, or the Supreme Court. This immunity shall not extend to any other publication or communication of such information.

Note: Paragraph (a) adopted and text of former Rule 2:15-16 amended and incorporated as paragraph (b) February 3, 1997 to be effective March 1, 1997.

2:15-23. Effect of Retirement, Resignation, or Failure of Reappointment

- **(a)** Although a judge retires, resigns from office, or is not reappointed, the Committee may consider a matter involving that judge's activities or conduct while a judge and may in its discretion (i) proceed with the matter in accordance with these Rules, or (ii) refer its file to the appropriate District Ethics Committee for handling pursuant to Rule 1:20, or (iii) take both actions.
- **(b)** The Committee shall have jurisdiction to review the conduct of any judge who is retired and serving on recall.

Note: Text of former Rule 2:15-18 amended and incorporated as paragraph (a), paragraph (b) adopted February 3, 1997 to be effective March 1, 1997.

2:15-24. Disqualification of Judge

The filing of allegations concerning a judge shall not automatically require the judge's recusal from a matter involving the grievant.

Note: Adopted February 3, 1997 to be effective March 1, 1997.

2:15-25. Referral for Administrative Action

Whenever the Committee determines that any or all of the allegations it has received are more properly the subject of administrative remedy or other administrative action, it may refer such allegations to the Administrative Office of the Courts and may so notify the person making the allegations.

Note: Adopted February 3, 1997 to be effective March 1, 1997.