

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to the Rules Governing the Courts of the State of New Jersey are adopted to be effective immediately:

Rule 2:15-2

Rule 2:15-3

Rule 2:15-4

Rule 2:15-6

Rule 2:15-7

Rule 2:15-10

Rule 2:15-12

Rule 2:15-14

Rule 2:15-15

Rule 2:15-15A (new)

Rule 2:15-16

Rule 2:15-17

Rule 2:15-18

Rule 2:15-20

Rule 2:15-22 (note amended)

Rule 2:15-23 (note amended)

Rule 2:15-25

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosen", is written over the text "For the Court,".

Chief Justice

Dated: December 2, 2019

2:15-2. Appointment and Membership

The Committee shall consist of eleven members. The Court shall designate one member to serve as Chair and another member to serve as Vice Chair. At least three 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 five 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.] Members shall be appointed by the Court for a term of three years. No member who has served four full three-year terms shall be eligible for immediate reappointment. 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; amended January 22,, 2019 to be effective immediately; amended December 2, 2019 to be effective immediately.

2:15-3. Quorum and Hearing Panels

(a) A quorum shall consist of six 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 admonition, reprimand, censure, suspension, or removal of a [Judge] judge, such recommendation shall be made only on the affirmative vote of

six members of the Committee who have considered the record and at least four 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] four-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; paragraph (a) amended January 22, 2019 to be effective immediately; paragraphs (a) and (b) amended December 2, 2019 to be effective immediately.

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] Executive Director/Counsel to the Committee. The [Secretary] Executive Director/Counsel 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; paragraph (b) amended December 2, 2019 to be 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] Executive Director/Counsel to the Committee, [or individual members] or any authorized representative thereof 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).

(d) The Executive Director/Counsel may apply *ex parte* to the Court for an order compelling a person to comply with a subpoena. A certification shall accompany such application and shall include proof of proper service.

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; paragraph (a) amended and new paragraph (d) adopted December 2, 2019 to be effective immediately.

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] Executive Director, 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; amended December 2, 2019 to be effective immediately.

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, and if the matter has received public attention, the Committee may, at the request of the judge or on the Committee's own motion, issue a short explanatory statement after reasonable notice to the Supreme Court; 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.; or

(3) on its own motion or at the request of the judge, issue a short explanatory statement, after reasonable notice to the Supreme Court, if the matter has received public attention and the Committee has determined after the conclusion of a preliminary investigation that there is no basis to initiate formal proceedings, but that private discipline is appropriate consistent with Rule 2:15-10(c)(1).

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; paragraph (a) amended and new subparagraph (c)(3) adopted December 2, 2019 to be effective immediately.

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] Disciplinary Counsel or other such attorney as the Committee may designate 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. The complaint shall set forth sufficient

facts to constitute fair notice of the nature of the alleged misconduct, specifying the ethical rules that were violated.

(c) Within twenty days of service of the formal complaint on the judge, the judge shall file an original and one copy of a written, verified answer to the charges, designated as such in the caption, with the Committee at its principal office. For good cause, the Committee may extend the time within which the judge may file an answer. The answer shall set forth (1) a candid and complete disclosure of all facts reasonably within the scope of the formal complaint; (2) all affirmative defenses, including any claim of mental or physical disability and whether it is alleged to be causally related to the offenses charged; (3) any mitigating circumstances; and (4) any constitutional challenges to the proceedings. All constitutional questions shall be held for consideration by the Court as part of its review of the Committee's decision. A judge is required to file an answer even if the judge does not wish to contest the complaint.

(d) Service on the judge of any pleading shall be made by personal service, or by certified mail (return receipt requested) and regular mail, or by overnight mail or electronic transmission with confirmation of successful delivery to their chambers, and with regard to part-time Municipal Court judges, to their chambers and law office address listed in the New Jersey Lawyer's Diary. Service on a judge may also be made by serving the judge's attorney, if any, by certified mail (return receipt requested) or by facsimile or overnight mail or electronic transmission with confirmation of successful delivery.

(e) [(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; paragraphs (b) and (c) amended, new paragraph (d) adopted, former paragraph (d) redesignated as paragraph (e) December 2, 2019 to be effective immediately.

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] Disciplinary Counsel, 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) A judge's unexcused absence, non-responsiveness or other failure to reply or to file any document or to attend any required conference or hearing shall not delay the orderly processing of a case, provided the judge has been properly served pursuant to Rule 2:15-12(e).

(h) [(g)] At the conclusion of the formal hearing, the Committee may provide for post-hearing briefs.

(i) [(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.

(i) Generally, disciplinary matters shall take precedence over administrative, civil and criminal cases. All courts, tribunals, assignment judges and presiding judges shall make reasonable accommodations for the attendance of respondent judges, their counsel, witnesses and other participants. Every participant in a disciplinary proceeding shall be obligated to give reasonable advance notice of potential litigation conflicts to the assignment judge, presiding judge, or, in the case of counsel, witnesses and other participants, to the particular judge or officer in charge of the litigation. The same advance notice shall be given to the presenter and the Committee chair in the disciplinary matter.

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; paragraph (d) amended, new paragraph (g) adopted, former paragraphs (g) and (h) redesignated as paragraphs (h) and (i), and new paragraph (j) adopted December 2, 2019 to be effective immediately.

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 admonition, 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 admonition, reprimand, censure, suspension, or removal by the Supreme Court, it shall [recommend to] promptly file with the Clerk of the Supreme Court a Report setting forth its findings and recommending the dismissal of the complaint with or without private discipline, and the Committee or the judge may request the Supreme Court to issue a short statement announcing its disposition.

(c) When filing the Committee's decisions pursuant to this Rule, the [Secretary] Executive Director/Counsel shall certify the record before the Committee and shall file copies thereof with the Court. In addition, the [Secretary] Executive Director/Counsel 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.

(d) The Presentment or Report, and the Record before the Committee shall be public at the time of filing with the Court, in accordance with Rule 2:15-20(b).

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; paragraphs (a), (b) and (c) amended and new paragraph (d) adopted December 2, 2019 to be effective immediately.

2:15-15A. Discipline by Consent

(a) Removal by Consent

(1) General Procedure. At any time after the filing of formal charges, but prior to the issuance of a Presentment or Report, a judge may consent to removal from judicial office consistent with the provisions contained in subsection (a)(2). The Executive Director or Counsel

shall transmit the consent together with a report and recommendation to the Supreme Court. If accepted, the removal by consent shall be equivalent to an order of removal.

(2) Affidavit of Consent. Consents to removal shall be by affidavit in the form approved by the Court in which the judge asserts:

(A) the judge has consulted with an attorney; and

(B) the judge's consent is freely and voluntarily given; the judge has not been subjected to coercion or duress; the judge is fully aware of the implications of submitting the consent; and

(C) the judge is not under any disability, mental or physical, nor under the influence of any medication, intoxicants or other substances that would impair the judge's ability to knowingly and voluntarily execute the removal by consent; and

(D) the judge is aware that there is presently pending an investigation or proceeding involving allegations of unethical judicial conduct, which allegations are set forth in the consent form; and

(E) an acknowledgment that the material facts so alleged are true; and

(F) an acknowledgment that the allegations of unethical judicial conduct could not be successfully defended; and

(G) the understanding that the removal by consent, if accepted by the Supreme Court, is tantamount to an order of removal and constitutes an absolute bar to holding judicial office in the future.

(3) Action by Committee. On its receipt of a request for removal by consent, the Committee shall submit the request and all supporting documentation to the Supreme Court.

(4) Action by Supreme Court. The Supreme Court may accept the tendered removal by consent and enter an order of removal with supporting documentation, to include the affidavit of the judge and other documents referenced in connection therewith. Otherwise, the Court shall reject the removal by consent and the disciplinary proceeding shall resume before the Committee as if no consent had been submitted. The consent for removal shall not thereafter be admitted into evidence.

(b) Other Discipline by Consent

(1) Timeliness and Form of Petition. At any time after the filing of formal charges in accordance with Rule 2:15-12(a), but prior to the issuance of a Presentment or Report, a judge may agree with Disciplinary Counsel to submit an affidavit by consent in exchange for a specific recommendation for discipline.

(2) Contents of Stipulation and Affidavit. Counsel or Disciplinary Counsel shall file with the Committee a signed stipulation setting forth in detail the admitted facts regarding the unethical conduct, the specific ethical rules violated, a specific recommendation for, or range of, discipline, together with a brief analysis of the legal precedent. The stipulation shall attach the judge's affidavit of consent in the form approved by the Supreme Court and contain the assertions set forth in paragraph (a)(2)(B), (a)(2)(C), and (a)(2)(E).

(3) Action by Committee. On its review of a stipulation and affidavit for imposition of discipline by consent, the Committee may either grant the application and accept the recommendation, or deny the application. Following approval by the Committee, the matter shall be submitted to the Supreme Court as an agreed upon disposition by way of application to impose discipline by consent with supporting documentation. If denied, the disciplinary

proceeding shall resume as if no motion had been submitted and no such submission shall be evidentiary.

(4) Action by Supreme Court. The Supreme Court may accept the tendered discipline by consent and enter an order of discipline with supporting documentation, to include any stipulations, affidavits, and other documents referenced in connection therewith. Otherwise, the Court shall reject the discipline by consent. If rejected, the disciplinary proceeding shall resume as if no consent had been submitted, and the consent for discipline shall not thereafter be admitted into evidence.

Note: Adopted December 2, 2019, to be effective immediately.

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] five 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; amended December 2, 2019 to be effective immediately.

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; or.
- (3) issue an order adopting the Presentment and imposing public discipline; or
- (4) dismiss the complaint with or without issuing a short statement announcing its disposition.

(c) Reports. On review of a Report the Supreme Court shall:

- (1) require the judge to show cause why a sanction less than removal should not be imposed; or
- (2) dismiss the complaint with or without issuing a short statement announcing its disposition.

(d) Conditions. The Supreme Court's order of discipline may provide for one or more of the following, either as part of a sanction imposed or as a condition of reinstatement to judicial duties:

- (1) substance abuse counseling including, but not limited to, requiring abstinence, testing, and an identifiable commitment to appropriate support groups;
- (2) mental health treatment and counseling, together with a finding of fitness to serve by a mental health professional approved by the Court;
- (3) such other conditions as may be deemed appropriate.

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; new subparagraphs (b)(3) and (b)(4) adopted, and paragraphs (c) and (d) adopted December 2, 2019 to be effective immediately.

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] Disciplinary Counsel 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; paragraph (b) amended December 2, 2019 to be effective immediately.

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, including the Record before the Committee and any Presentment or Report filed thereafter, [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.

(d) Persons who file with the Committee allegations concerning a judge may make public statements regarding the disciplinary process, the filing and content of the allegations, and the disposition of the allegations. Those persons, however, are not immune from suit pursuant to Rule 2:15-22(b) for any public statements.

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; paragraph (b) amended, and new paragraph (d) adopted December 2, 2019 to be effective immediately.

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: Caption as Rule 2:15-22 adopted, paragraph [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: Former Rule 2:15-18 redesignated as Rule 2:15-23, caption amended, text designated [Text of former Rule 2:15-18 amended and incorporated] as paragraph (a), and new paragraph (b) 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, an Assignment Judge, or the Presiding Judge of Administration for the Appellate Division or Tax Court, and may so notify the person making the allegations.

Note: Adopted February 3, 1997 to be effective March 1, 1997; amended December 2, 2019 to be effective immediately.