

## FINAL REPORT<sup>1</sup>

### *Amendments to Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges*

#### **TWO YEAR LIMITATION ON CERTIFICATION OF INTERESTED PERSONS**

On March 8<sup>th</sup>, 2006, effective July 1, 2006, upon recommendation of the Minor Court Rules Committee,<sup>2</sup> the Supreme Court of Pennsylvania amended Rules 19 and 21 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges.<sup>3</sup>

#### **I. Background**

The Minor Court Rules Committee (the Committee), in consultation with the Minor Judiciary Education Board (the MJEB) and at the direction of the Supreme Court, undertook a review of Rule 19 of the Standards of Conduct of Magisterial District Judges (Certification requirements of interested persons).<sup>4</sup> The MJEB had alerted the Supreme Court to concerns about a significant number of individuals who have completed the course of training and instruction and passed the examination to be certified to serve as magisterial district judges, but who have never served in office. Prior to these amendments to Rule 19, these individuals could maintain their certification so long as they attended the annual one-week continuing education course offered by the MJEB. The MJEB reported that some of these individuals have maintained certification in this manner for considerable periods of time, and some have run for office more than once without being elected.

The MJEB raised concerns about the ability and competency of some of these individuals to perform the duties of their office if they were to be appointed or elected after so long a delay from initial certification and absence of day-to-day involvement with the law and procedure as a sitting judicial officer. The Committee and the MJEB recognized a need to require more current certification for individuals who have never served in office, beyond just the annual continuing education program. They agreed that the annual continuing education program alone is insufficient to maintain the

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<sup>1</sup> The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Report.

<sup>2</sup> Recommendation No. 1 Minor Court Rules 2005.

<sup>3</sup> Supreme Court of Pennsylvania Order No. 228, Magisterial Docket No. 1 (March 8, 2006). Madame Justice Baldwin did not participate in the decision of this matter.

<sup>4</sup> Pa Code tit. 207, ch. 51, Rule 19 (hereinafter Rule 19).

knowledge and skills needed to serve as a judicial officer when the skills are not being practiced on a day-to-day basis as they are by sitting judicial officers.<sup>5</sup>

To address the concerns raised by the MJEB, the Committee and the MJEB recommended that the Court approve amendments to Rule 19 to disallow the practice of maintaining certification merely by attending the annual continuing education program, and that the Court approve correlative amendments to Rule 21. Because of the concerns about the ability of some of the currently certified individuals to perform the duties of their office if appointed or elected, the Committee believed exigent circumstances existed that required prompt submission of the recommendation to the Supreme Court. Therefore, the Committee submitted its recommendation, and the Court adopted it, without prior publication for public comment.<sup>6</sup>

## **II. Approved Rule Changes**

### **A. Rule 19**

The Committee recommended that the last sentence of existing Rule 19, which created the exception to the two-year certification period, be deleted. In addition, the Committee recommended that the rule be restructured to make clear that certification is effective for only two years for individuals who are certified but have not served in office. The amended rule does, however, permit an individual to maintain certification by completing a review course as prescribed by the MJEB and passing a recertification examination.<sup>7</sup>

The amendments also require all certified individuals to attend the annual one week continuing education program. Under the rule prior to these amendments, an individual could maintain certification for up to two years without attending continuing education. Because of the constantly and rapidly changing nature of law and procedure, the Committee and the MJEB believe these annual updates are necessary for certified individuals to be informed of developments since their initial certification.

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<sup>5</sup> The curriculum and format of the continuing education program assume that the participants maintain a certain level of knowledge that comes from sitting as a judicial officer and directly dealing with legal issues on a day-to-day basis, or from having completed the initial certification course within the relatively recent past. There is no examination component to the continuing education program.

<sup>6</sup> See Pa.R.J.A. No. 103(a)(3).

<sup>7</sup> The initial certification course is a four week program; the one week review course required for recertification is simply the last week of the initial certification course that is offered on a regular basis to prospective judges. The examination required for recertification is the same length and format as that required for initial certification.

Further, the Committee recommended that an Official Note be added to Rule 19 to explain the intent of the rule, including clarification that admission to the review course and recertification examination may be limited by the availability of space.

### **B. Correlative Amendment to Rule 21**

In addition to the amendment to Rule 19, the Committee recommended that Rule 21 be amended to delete the provisions relating to continuing education of individuals who are certified but have not served in office. These provisions are rendered unnecessary by, and would be inconsistent with, the amendments to Rule 19.

Finally, in addition to the substantive changes discussed above, the Committee recommended other editorial revisions to both rules to address gender neutrality issues, to conform to modern drafting style, and to enhance readability.