

# FINAL REPORT<sup>1</sup>

## Recommendation 2-2017, Minor Court Rules Committee

*Amendment of Rules 2.3 and 3.6, and of the Comment to Rule 3.1 of the Rules Governing Standards of Conduct of Magisterial District Judges*

### PROHIBITING DISCRIMINATION ON THE BASIS OF GENDER IDENTITY OR EXPRESSION

#### I. Introduction

The Minor Court Rules Committee (“Committee”) recommended amendments to Rules 2.3 and 3.6, and to the Comment to Rule 3.1 of the Rules Governing Standards of Conduct of Magisterial District Judges (“MDJ Conduct Rules”). The amendments prohibit discrimination on the basis of gender identity or expression.

#### II. Background and Discussion

In 2014, the Supreme Court approved new MDJ Conduct Rules. See Order of September 18, 2014, No. 376, Magisterial Rules Docket. MDJ Conduct Rules 2.3 and 3.6, and the Comment to MDJ Conduct Rule 3.1 address bias and discrimination based on enumerated categories, such as race or disability.

In July 2016, the Supreme Court approved amendments to the Unified Judicial System’s Policy on Non-discrimination and Equal Opportunity to prohibit discrimination on the basis of gender identity or expression. On March 28, 2017, the Court made a correlative amendment to Rule 2.3 of the Code of Judicial Conduct adding gender identity or expression as additional categories of persons protected from discrimination. See Order of March 28, 2017, No. 483 Judicial Administration Docket. In light of these changes, the Court requested that the Committee review the MDJ Conduct Rules and submit a recommendation as to the advisability of adding gender identity or expression as additional protected categories under MDJ Conduct Rule 2.3. Upon review of other MDJ Conduct Rules, the Committee identified Rule 3.6 and the Comment to Rule 3.1 as rules that provide protection from discrimination for enumerated categories of persons.

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

### **III. Rule Changes**

The Committee recommended the amendment of MDJ Conduct Rules 2.3(B) and 3.6(A) to add gender identity or expression as bases upon which persons cannot be subject to bias and discrimination. The Committee also recommended this change to Comment [3] of MDJ Conduct Rule 3.1.