

PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Rule 102. Definitions.

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**“Former judicial officer.” A judicial officer who is no longer engaged in judicial service.**

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“Judge status.” The license status of a justice or judge serving on the following Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and a justice or judge serving on the following federal courts: Supreme, Court of Appeals, Bankruptcy, and District Court, including full-time and part-time magistrate judges not otherwise engaged in the practice of law. This status includes a justice or judge who served on one of these courts and is granted senior status **or certified for recall service.** [An attorney on judge status is exempt from annual registration under Rule 219(a)(2).]

**“Judicial officer.” A justice, judge, or magisterial district judge in the Commonwealth, or the equivalent position in another jurisdiction, who is an attorney admitted to the bar of this Commonwealth. This term includes a judicial officer who is on a senior status or is certified for recall service.**

**“Judicial service.” Service as a judicial officer.**

**Rule 201. Jurisdiction.**

(a) The exclusive disciplinary jurisdiction of the Supreme Court and the Board under these rules extends to:

(1) Any attorney admitted to practice law in this Commonwealth.

Note: The jurisdiction of the Board under this paragraph includes jurisdiction over a foreign legal consultant, military attorney, attorney spouse of an active-duty service member, attorney participant in defender or legal services programs, or a person holding a Limited In-House Corporate Counsel License. See the definitions of "attorney", "practice of law" and "respondent-attorney" in Rule 102.

(2) Any attorney of another jurisdiction specially admitted by a court of this Commonwealth for a particular proceeding.

(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, temporary suspension, administrative suspension, permanent resignation, or transfer to or assumption of retired, inactive or disability inactive status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the Disciplinary Rules, these rules or rules of the Board adopted pursuant hereto.

(4) Any attorney who is a justice, judge or magisterial district judge, with respect to acts prior to taking office as a justice, judge or magisterial district judge, if the Judicial Conduct Board declines jurisdiction with respect to such acts.

(5) Any attorney who resumes the practice of law,] former judicial officer with respect to nonjudicial acts while in office as a justice, judge or magisterial district judge] judicial service.

(6) Any attorney not admitted in this Commonwealth who practices law or renders or offers to render any legal services in this Commonwealth.

(b) The disciplinary jurisdiction of the Supreme Court and the Board under these rules also extends to:

(1) any former judicial officer with respect to acts that occurred while a judicial officer and that would have been grounds for lawyer discipline.

**(2) any judicial officer with respect to acts during the practice of law that constitute the violation of the Disciplinary Rules, these rules or rules of the Board adopted pursuant hereto.**

**[(b)] (c)** Nothing contained in these rules shall be construed to deny to any other court such powers as are necessary for that court to maintain control over proceedings conducted before it, such as the power of contempt, nor to prohibit bar associations from censuring, suspending or expelling their members from membership in the association.

**Rule 219. Annual registration and assessment. Administrative suspension. Administrative changes in status.**

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**[(j) Judge status.]**

**(1) An attorney who commences judicial service as a justice or judge on the following courts shall be assigned judge status by the Attorney Registration Office:**

- (i) Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and**
- (ii) federal courts: Supreme, Court of Appeals, Bankruptcy, and District Court, including full-time and part-time magistrate judges not otherwise engaged in the practice of law.**

**(2) At the conclusion of judicial service, an attorney holding judge status shall:**

- (i) within 20 days, notify the Attorney Registration Office in writing of the conclusion of judicial service; and**
- (ii) within 60 days, elect either active status under paragraph (3) or retired status under paragraph (4).**

**(3) Administrative change to active status within 60 days of conclusion of judicial service. A former justice or judge on judge status who seeks to resume active status upon conclusion of judicial service shall, within 60 days, submit to the Attorney Registration Office:**

- (i) a form available through the Attorney Registration Office;**
- (ii) a notice in writing which shall set forth:**
  - (A) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline; and**
  - (B) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;**
- (iii) a waiver available through the Attorney Registration Office and signed by the former justice or judge of the confidentiality of the record in any proceeding disclosed in the notice provided under paragraph (ii), for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules;**
- (iv) payment of the active annual assessment for the year in which the request for active status is made.**

**(4) Administrative change to retired status within 60 days of conclusion of judicial service.** A former justice or judge on judge status who seeks to assume retired status upon conclusion of judicial service shall, within 60 days, submit to the Attorney Registration Office a form available through that office.

**(5) Upon determination by the Attorney Registration Office that the application requirements of paragraph (3) or (4) have been satisfied, the Attorney Registration Office shall process the requested status change.**

**(6) A former justice or judge on judge status who fails to elect a new registration status within 60 days of concluding judicial service shall be placed on retired status by the Attorney Registration Office.]**

Please note: the following rule is all new proposed language. For readability, it is not bolded and underscored.

**Rule 222. Commencement and conclusion of judicial service.**

**(a) Commencement of judicial service.**

(1) *Required notification.* An attorney shall notify the Attorney Registration Office in writing of the commencement of judicial service within 30 days.

(2) *Judge status.*

(i) An attorney who commences judicial service as a justice or judge on the following courts shall be assigned judge status by the Attorney Registration Office:

(A) Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and

(B) federal courts: Supreme, Court of Appeals, Bankruptcy, and District Court, including full-time and part-time magistrate judges not otherwise engaged in the practice of law.

(ii) An attorney not assigned judge status shall remain on the attorney's current license status until that status changes pursuant to another provision of the Enforcement Rules.

Note: Paragraph (2) also applies to judicial officers who are assigned a senior status or certified for recall service.

**(b) Conclusion of Judicial Service.**

(1) *Required notification.* Within 30 days after the conclusion of judicial service, a judicial officer shall notify the Attorney Registration Office of the conclusion of judicial service.

(2) *Concluding judicial service on judge status.* A judicial officer concluding judicial service on judge status must elect a new license status: active, inactive, or retired.

(i) The judicial officer shall, within 60 days after the conclusion of judicial service, submit to the Attorney Registration Office:

(A) an administrative change in status form available through that office which shall include a certification that at the conclusion of judicial service, the judicial officer either was or was not the subject of an adverse circumstance as defined in paragraph (d)(2);

(B) a confidentiality waiver, where the judicial officer has indicated an adverse circumstance as defined in paragraph (d)(1); the waiver shall authorize the Judicial Conduct Board and the Court of Judicial Discipline, or equivalent entities in another jurisdiction, to release to Disciplinary Counsel records of proceedings relating to adverse circumstances; and

(C) payment of the annual assessment for the year in which the request is made, where the judicial officer has elected active or inactive status.

(ii) A former judicial officer who does not timely submit to the Attorney Registration Office the documents and payment required by paragraph (b)(2)(i) shall be placed on retired status by that office. Thereafter, the former judicial officer may seek a change in license status under (A) or (B) of this paragraph (ii).

(A) *Retired status for three years or less.* The former judicial officer must submit to the Attorney Registration Office the documents and payment required by paragraph (b)(2)(i). Upon determination by the Attorney Registration Office that the applicable requirements have been satisfied, the Attorney Registration Office shall process the requested status change.

(B) *Retired status for more than three years.* The former judicial officer must petition for reinstatement under the provisions of Enforcement Rule 218(d).

(3) *Concluding judicial service on a status other than judge status.* A judicial officer who concludes judicial service on a status other than judge status shall, within 60 days after the conclusion of service, submit to the Attorney Registration Office:

(i) a certification that at the conclusion of judicial service, the judicial officer either was or was not the subject of an adverse circumstance as defined in paragraph (d)(2); and

(ii) a confidentiality waiver, where the judicial officer has indicated an adverse circumstance as defined in paragraph (d)(1); the waiver shall authorize the Judicial Conduct Board and the Court of Judicial Discipline, or equivalent entities in another jurisdiction, to release to Disciplinary Counsel records of proceedings relating to adverse circumstances.

The judicial officer's current license status shall remain in effect until that status changes pursuant to another provision of the Enforcement Rules.

Note: Subdivision (b) is not applicable to judicial officers on senior status or certified for recall service until such status or service finally concludes.

(c) *Initiation of investigation of a former judicial officer who concluded judicial service while the subject of an adverse circumstance.*

(1) Upon notification from any source that a former judicial officer concluded judicial service while the subject of an adverse circumstance as defined in paragraph (d)(2), Disciplinary Counsel:

(i) shall open a file and investigate; and

(ii) may pursue informal or formal proceedings under the Enforcement Rules, including seeking a temporary suspension under Rule 208(f) or Rule 214(d).

(2) Evidence of removal or judicial discipline in the form of an order or judgment shall be admissible in proceedings under these rules and is conclusive proof of the facts on which the judicial misconduct or disability was found by the Court of Judicial Discipline or the Court, or equivalent entity in another jurisdiction.

(d) *Definitions.*

(1) "Adverse circumstance." Any of the following:

- (i) judicial suspension.
- (ii) removal from office by order, impeachment, or other form of adverse action.
- (iii) a pending investigation, prosecution, or removal proceedings for misconduct or disability.

(2) "Subject of an adverse circumstance." A judicial officer who, at the conclusion of judicial service, was the subject of an adverse circumstance enumerated in (d)(1).