



# ANNUAL REPORT

# 2005

## Pennsylvania Judicial Conduct Board

Pennsylvania Place  
301 Chestnut Street, Suite 403  
Harrisburg, Pennsylvania 17101

(717) 234-7911

Website: [jcbpa.org](http://jcbpa.org)

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# MEMORANDUM

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## Pennsylvania Judicial Conduct Board

Pennsylvania Place, 301 Chestnut Street, Suite 403, Harrisburg, Pennsylvania 17101

(717) 234-7911

FAX (717) 234-9307

Website: [jcbpa.org](http://jcbpa.org)

Joseph A. Massa, Jr., Chief Counsel

March 2006

### MEMORANDUM

**TO:** Honorable Ralph J. Cappy  
Chief Justice, Pennsylvania Supreme Court  
One Oxford Center, Suite 3130  
Grant Street  
Pittsburgh, PA 15219

Honorable Robert C. Jubelirer  
President Pro Tempore  
Senate of Pennsylvania  
292 Capitol Building  
Harrisburg, PA 17120

William P. Carlucci  
President  
Pennsylvania Bar Association  
100 South Street  
P.O. Box 186  
Harrisburg, PA 17108-0186

Honorable Edward G. Rendell  
Governor of Pennsylvania  
225 Capitol Building  
Harrisburg, PA 17120

Honorable John M. Perzel  
Speaker  
Pennsylvania House of Representatives  
139 Capitol Building  
Harrisburg, PA 17120

**FROM:** Joseph A. Massa, Jr., Chief Counsel

**RE:** 2005 Annual Report

The attached annual report outlines the activities of the Judicial Conduct Board during the calendar year 2005. It is provided to you as required by Article V, §18(a)(6) of the Pennsylvania Constitution, and §2104 of Title 42, Judiciary and Judicial Procedures.

It is hoped that the information included in this report will assist the Judiciary and the public in understanding the operation of the Judicial Conduct Board and the nature of issues which come before the Board.

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## 2005 BOARD MEMBERS

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### JUDGE MEMBERS

Honorable Samuel J. Magaro  
(Chair)  
(Sr. Magisterial District Judge)  
*(Term expired 8/16/05)*

Honorable John L. Musmanno  
Superior Court of Pennsylvania  
*(Term expired 3/20/05)*

Honorable Jack A. Panella\*  
Superior Court of Pennsylvania  
*(Term expires 3/20/09)*

Honorable Thomas A. Wallitsch\*  
Court of Common Pleas  
of Lehigh County  
*(Term expires 8/16/08)*

Honorable Charles A. Clement, Jr.\*  
Magisterial District Judge  
*(Term expires 8/16/09)*

### ATTORNEY MEMBERS

G. Craig Lord, Esquire\*  
*(Term expires 8/16/08)*

Charlene R. McAbee, Esquire\*  
*(Term expires 8/16/07)*

Mark C. Schultz, Esquire\*  
(Chair)  
*(Term expires 8/16/06)*

### PUBLIC MEMBERS

Leo P. Bigley  
*(Term expired 8/16/05)*

Thomas A. Black III\*  
*(Term expires 8/16/07)*

John R. Cellucci  
*(Term expired 8/16/05)*

Patrick Judge, Sr.\*  
(Vice-Chair)  
*(Term expires 8/16/07)*

Carolyn "Raven" Rudnitsky\*  
*(Term expires 8/16/08)*

James R. Weaver\*  
*(Term expires 8/16/09)*

### BOARD STAFF

Joseph A. Massa, Jr., Esquire  
*Chief Counsel*

Daniel T. Reimer, Esquire  
*Assistant Counsel*

Francis J. Puskas II, Esquire  
*Deputy Chief Counsel*

George F. Delaney, Jr.  
*Investigator*

Douglas K. Miller  
*Investigator*

Toni I. Schreffler  
*Paralegal*

Paula R. Caruso  
*Executive Secretary*

Alta M. Drayton-Brown  
*Legal Secretary*

\* *current member*



## BOARD MEMBERS AND CHIEF COUNSEL

### Honorable John L. Musmanno

Judge John L. Musmanno was born in McKees Rocks, Pennsylvania. He received a Bachelor of Arts degree from Washington & Jefferson College in 1963, graduating *magna cum laude* and Phi Beta Kappa. In 1966 he received his Juris Doctor from Vanderbilt University School of Law, where he was an assistant editor of the Vanderbilt *Law Review*.

Judge Musmanno is a member of the American, Pennsylvania, and Allegheny County Bar Associations.

He received the President's Award from the Pennsylvania Trial Lawyers Association in 1991, and the Academy of Trial Lawyers of Allegheny County award in 1993.

He maintained a private law practice from 1966 to 1981; was elected district justice from 1970 to 1981; and in 1981 was elected judge, Allegheny County Court of Common Pleas, where he served in the Family, Criminal, and Civil Divisions. He was re-elected in 1991, and was the administrative judge, Civil Division, Allegheny County Court of Common Pleas, from 1990 to 1997. In November 1997 he was elected to the Superior Court.

*Appointed by the Supreme Court—Democrat.*

### Honorable Samuel J. Magaro

Samuel J. Magaro was born November 3, 1932 in Steelton, the son of the late Giuseppi and Agnes Lappano Magaro. He attended Elizabethtown College, the Pennsylvania State University, and Shippensburg State College, 1975. He has served as magisterial district judge in Lower Paxton Township from 1975 to the present, served in the U.S. Air Force

from 1951 to 1954, and served as the assistant to the chairman for the Republican State Committee. He was a probation and parole officer and chief inheritance tax officer for Dauphin County, and a research analyst at the Pennsylvania House of Representatives. District Judge Magaro is the owner of Magaro's.

He is a member of the American Judicature Society, Special Court Judges Association of Pennsylvania, American Legion, Veterans of Foreign Wars, and Knights of Columbus—4th Degree Member, and served on the Minor Court Rules Committee from 1990 to 1993.

Mr. Magaro was the first recipient of the John J. Jeffers Memorial Award by the Special Court Judges Association of Pennsylvania in recognition of dedicated and unselfish service in 1995, and in 2002 he was awarded the Pennsylvania Supreme Court's award for Distinguished Service to Judicial System and the Themis Award from the Special Court Judges Association of Pennsylvania.

He was appointed and served as Judge, Court of Judicial Discipline from August 1994 to 1999, and was president of the Special Court Judges Association from 1999 to 2000. In 2001 he was appointed as a member of the Judicial Conduct Board, and elected chair from 2004 to 2005. He also chaired the sub-committee of the Intergovernmental Task Force. Since 2004, he has been serving as Senior Magisterial District Judge.

He is married to Mary Roberto, and has five children: Natalie, Ninette, Anne Marie, Samuel J., Jr., and Anthony, and 12 grandchildren.

*Appointed by the Supreme Court—Republican.*

### Honorable Thomas A. Wallitsch

Judge Thomas A. Wallitsch graduated from Dickinson College in 1970 and earned a Juris Doctor degree in 1973 from Duquesne University School of Law, where he served on the *Law Review*. In 1993, Judge Wallitsch received his Master's in Governmental Administration from the University of Pennsylvania. He served Lehigh County as solicitor to the county controller from 1984 to 1987, as assistant county solicitor in 1976, and as chief public defender from 1976 to 1981. Since 1994, Judge Wallitsch has an appointment as adjunct professor in Political Science at Muhlenberg College, teaching courses in The American Judiciary and Public Administration.

Judge Wallitsch was certified as a civil trial specialist by the National Board of Trial Advocacy and has served on its Board of Examiners. He serves as co-chair of the Pennsylvania Conference of State Trial Judges' Education Committee and is a member of the Pennsylvania Supreme Court's Advisory Committee on Continuing Judicial Education. Judge Wallitsch currently serves as vice-chair of the Pennsylvania Supreme Court's Appellate Rules Committee, of which he has been a member since 2001. He also serves as a member of the STOP Violence Against Women Planning Committee of the Pennsylvania Commission on Crime and Delinquency. He was the first president of the Donald E. Wier and Sr. American Inn of Court. He has been active in various community service organizations, including the Allentown Liberty Bell Rotary Club, where he served as president and foundation president.



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## BIOGRAPHIES

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He was appointed Judge of the Court of Common Pleas for Lehigh County in April of 1991 and elected to his first full term in November of that year. In 2001, Judge Wallitsch was retained for another 10-year term.

*Appointed by the Governor—Democrat*

### Honorable Jack A. Panella

Judge Jack A. Panella received a B.S. degree in Accounting, with honors, from St. John's University in 1977, and his Juris Doctor, with honors, from Columbus School of Law, Catholic University of America, in 1980.

Judge Panella was engaged in the private practice of law and also served as Northampton County solicitor. He currently teaches at DeSales University. His book, *The Benchbook on Crimes of Sexual Violence in Pennsylvania*, will be published in 2006.

In 1991 he was appointed to the Court of Common Pleas of Northampton County and elected to full terms in 1993 and 2003. He received the President's Award from the Pennsylvania Conference of State Trial Judges in 2002, and served as Chair of the Commonwealth Partners Program. Judge Panella also served on the Judicial Ethics Committee.

In 1997 he was appointed by the Supreme Court of Pennsylvania to be a judge of the Pennsylvania Court of Judicial Discipline, and was elected President Judge in June 2000. In 2005, he was appointed by the Supreme Court to the Judicial Conduct Board.

In 2004, Judge Panella was appointed by the Supreme Court to serve on the Commission for Justice Initiatives in Pennsylvania. He currently chairs the Public Education and Community Outreach Committee.

Judge Panella was elected to the

Superior Court in November 2003, and commenced service on the Superior Court in January 2004. His Chambers are in Bethlehem.

### Honorable Charles A. Clement, Jr.

Judge Charles A. Clement, Jr. is currently serving in his 17th year as a Magisterial District Judge in Cumberland County. He is a very active member of the Special Court Judges' Association of Pennsylvania, having served as its president from 1997 to 1998. Within this professional association, Judge Clement has also been an advisor to the President, a liaison to the Supreme Court and to the Legislature, and a member of the Ethics & Professional Committee, as well as serving in other capacities. He is also an appointed member of the Pennsylvania Commission on Crime and Delinquency's Homeland Security, Law Enforcement, and Justice Systems Subcommittee on Courts and Corrections.

Judge Clement was the recipient of his State Association's John J. Jeffers Memorial Award in recognition of dedicated and unselfish service in 2000, and the Themis Award for lifetime achievement in 2005.

Judge Clement was born in Harrisburg in 1957. He attended Canisius College in Buffalo, New York on a full athletic scholarship and earned a double Bachelor's degree in Sociology and Communication in 1980. In 1998, Judge Clement was presented the Dr. Marilyn G.S. Watt Alumni Award for sharing a sense of community and values through communication.

Judge Clement has contributed to his community by serving as a guest speaker at the local schools and before different and varied community groups. He has also been a

baseball and basketball coach for many years to the area's youth.

Judge Clement currently resides in New Cumberland with his wife, Jody, and their four teenage children.

*Appointed by the Supreme Court—Republican*

### Mark C. Schultz, Esquire

Mark C. Schultz joined the Cozen O'Connor Law Firm in February 1998 and is a resident in the Philadelphia office, where he concentrates his practice in subrogation and recovery.

Since 1998, Mr. Schultz has headed the workers' compensation recovery group at Cozen O'Connor. In this capacity, he has handled many complex product liability, construction, and general liability cases, in addition to managing a national recovery program for Cozen O'Connor clients.

Mr. Schultz is a member of the Montgomery County, Pennsylvania, and American Bar Associations, the Montgomery County and Pennsylvania Trial Lawyers Associations, and the Association of Trial Lawyers of America. He served as president of the Montgomery County Trial Lawyers Association in 1994, and as past president of the Montgomery Bar Association in 2000 and the Montgomery Bar Foundation in 2001. Mr. Schultz is a former member of the Pennsylvania Supreme Court Disciplinary Board, and is a lecturer for the Pennsylvania Bar Institute.

From 1975 to 1977, Mr. Schultz was assistant district attorney for Montgomery County. He earned his Bachelor of Arts degree at Clark University in 1971 and his law degree at Villanova University in 1975. He was admitted to practice in Pennsylvania in 1975.

*Appointed by the Supreme Court—Republican*



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## BIOGRAPHIES

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### Charlene R. McAbee, Esquire

Charlene R. McAbee is a sole practitioner in her own law practice. She recently retired from the Commonwealth of Pennsylvania, Department of Labor and Industry after 36 years. She is also co-owner and chair of the Board of River Development Corporation, which owns an inner-city abandoned shopping center and is transforming it into a major distribution center.

Ms. McAbee received her Bachelor of Arts degree from Seton Hill University, her Master's and Juris Doctor degrees from Duquesne University, and her Doctorate degree (ABD) from the University of Pittsburgh.

She serves on the Legal Redress Committee, is a life member of the National Association for the Advancement of Colored People, and is a member of the Black Political Empowerment Project. Ms. McAbee is a member of and serves on the Gaming Committee of the Pennsylvania Bar Association; is a board member of and serves on the Education and Human Resources Committee of the National Aviary; is a member of and serves on the Entertainment Committee of the Churchill Valley Country Club; is on the roles and a board member of the Council of Three Rivers American Indian Center; is a member of the African American Chambers of Commerce and the Amen Corner; and is a member and a former board member of the Pennsylvania Trial Lawyers Association.

Born and raised in Westmoreland County, Ms. McAbee now resides in Churchill Borough in Allegheny County with her father and her sister, who is a practicing attorney.

*Appointed by the Governor—Democrat*

### G. Craig Lord, Esquire

G. Craig Lord is a partner in the law firm of Blank Rome LLP, Philadelphia, and concentrates his practice in the areas of real estate development, real estate lending, real estate sales and acquisitions, commercial litigation, and arbitration and mediation.

Mr. Lord served as a Judge for the Philadelphia Court of Common Pleas from 1988 to 1997. He commenced his legal career as a law clerk to Justice Samuel J. Roberts of the Pennsylvania Supreme Court from 1971 to 1972. He was an associate and subsequently a partner in the Real Estate Department of Blank Rome Comisky & McCauley LLP from 1972 to 1986, and was general counsel to CoreManagement, Inc. from 1986 to 1988. From 1997 to 1999 he served as counsel to Raynes, McCarty, Binder, Ross & Mundy.

He is a *magna cum laude* graduate of Gettysburg College and of the University of Pennsylvania Law School, where he received his Juris Doctor degree, *magna cum laude*, and served as an editor of the *Law Review*.

Mr. Lord was born in Boston, raised in the Philadelphia area, and now resides in the Chestnut Hill section of Philadelphia with his wife, Rosemary, and their three children.

*Appointed by the Governor—Democrat*

### Leo P. Bigley

Leo P. Bigley was a member of the Plumbers Local Union #27 for 50 years, 32 of which he had been a business representative and business manager. He was vice president of the Pittsburgh Building Trades Council, and vice president of the Pennsylvania Pipe Trades Association. Mr. Bigley is a native of Pittsburgh, and resides in Crafton, Allegheny County. He is a father of five children.

He retired December 10, 2002.

*Appointed by the Supreme Court—Democrat*

### John R. Cellucci

Mr. Cellucci is president and owner of John R. Cellucci, Inc., a building, contracting, engineering, and land-development company. His experience as a builder, civil engineer, and general contractor has included constructing new homes, community housing developments, and shopping malls, and producing prestressed concrete bridges. In the late 1960s, Mr. Cellucci was the executive director of the Chester Housing Development Corporation.

He received a Bachelor of Science degree in Civil Engineering from Pennsylvania Military College (now Widener University) and also earned a Professional Engineering degree.

A former assistant professor of Civil Engineering at Pennsylvania Military College, Mr. Cellucci is very concerned with education and has been a trustee of the Widener University Board and a member of the Board of Overseers of the Widener University School of Law.

He received the Outstanding Service Award (1999) and the Outstanding Alumnus Award (1989) from Widener University. He was also awarded the Outstanding Service Award (1987) and the Liberty Bell Award (1980) from the Widener University School of Law.

His experience as an officer and company commander in the Army Corp of Engineers in Korea during the Korean Conflict earned him a Battle Star for service.

Mr. Cellucci is an active member of the Widener Alumni Association and has been a past vice-president on the Alumni Board of Widener University. He is also an active supporter of



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## BIOGRAPHIES

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numerous non-profit organizations, most recently the Philadelphia Zoo-obilee and The Friends of the Ocean City Pops, Inc. He is also a member of the Vesper Club of Philadelphia.

Mr. Cellucci resides in Berwyn with his wife, Dr. Edna H. Cellucci. They have two children, who are both attorneys: Kathleen C. Cellucci-Clemmensen, Esquire, and John H. Cellucci, Esquire.

*Appointed by the Governor—Republican*

### Thomas C. Black III

Thomas C. Black III is president and co-owner of Black, Davis & Shue Agency, Inc. With 27 years experience, he specializes in off-shore Captive Programs and Commercial Accounts.

Mr. Black was born in Harrisburg. From 1970 to 1972 he served in the United States Naval Reserve. He then attended Miami Dade Junior College and graduated from Thompson Business College.

In addition to his primary company, Mr. Black is an active owner of Pennsylvania Associated Agency, American Contractors Re-Insurance Company, Mobility Independent Transportation Services, Pennsylvania Alliance Corporation, and AmericaneWarranty, Inc. He also serves on the boards of William Penn Insurance Company, Tri-County Aircraft Leasing Corporation, and the Congressional Business Commission.

Black, Davis & Shue Insurance Agency, Inc. received a Commercial Lines Agency Recognition Award in 1993 and a Performance Award for Alternative Markets in 1996.

Mr. Black contributed to his community as co-chair of the National Multiple Sclerosis Society and as an event organizer for the Second Mile Program. Previously, Mr. Black

was a Board of Education Member of the Christian School of York.

Mr. Black currently resides in York with his wife of 26 years, Audrey F. Black. He is the father of a daughter, 24, a son, 22, and a son, 11.

*Appointed by the Governor—Republican*

### Patrick Judge Sr.

Patrick Judge, Sr., is executive vice president of Keystone Automotive Operations, Inc., the nation's largest-of-its-kind automotive accessory and parts distribution company, and involved in all core business operations. Responsibilities include overseeing human resources for more than 2,000 employees, legal issues, taxes, company acquisitions, risk management, and development of corporate strategy, providing him with an understanding of all aspects of aftermarket for the manufacturer, distributor, jobber, and consumer.

He is currently serving his second term on the Board of Directors of Specialty Equipment Market Association (SEMA), which began in 1930 and is the trade association of the industry. SEMA's board represents four industry segments: manufacturers, WDs, retailers, and manufacturer representatives, and consists of 21 directors.

Active in the community, Mr. Judge is a member of the Selective Service Board of the U.S. and the Federal Judicial Selection Committee; a board member and past president of the Greater Pittston Chamber of Commerce; and a board member of the Pittston Industrial Development Authority, the Wyoming Valley Sanitary Authority, the N.E. Pennsylvania Convention Center Arena Authority, the Geisinger Advisory Committee, and the PNC Bank, Northeastern Pa., and its Regional Advisory Board of Directors. Mr. Judge also belongs to

numerous other business, civic, fraternal, and service groups.

Married to Kimberly Ann Klimovitz, he has two sons: Patrick, Jr., a practicing attorney with Archer & Greiner, New Jersey, and Timothy, who is in his third year of law school at Widener School of Law. Mr. Judge resides at Glenmaura in Moosic, Pennsylvania.

*Appointed by the Supreme Court—Republican.*

### Carolyn "Raven" Rudnitsky

Raven Rudnitsky is a family therapist in private practice, specializing in couples and family therapy, women's issues, and stress and time management. She is also the Family Goals Facilitator for Rudnitsky and Hackman, LLP, a wealth strategies and estate planning law firm.

Ms. Rudnitsky is a speaker and facilitator for the Pennsylvania Bar Association and a member of its Quality of Life/Balance Task Force. She was the first woman and first non-lawyer to serve as chair during her six-year membership on the Disciplinary Board of the Supreme Court of Pennsylvania.

Ms. Rudnitsky has been active in several organizations in central Pennsylvania. She founded Valley Nursery School, a preschool program which has been in existence for more than 30 years. She has served as the past chair of the Professional Division of the United Way in Snyder County and is a past president of the Board of Directors at Hoffman Homes for Youth in Gettysburg. She recently completed three years as the president of the church council at St. Paul's United Church of Christ in her hometown.

Ms. Rudnitsky did her undergraduate work at the Pennsylvania State



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## BIOGRAPHIES

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University, earning a Bachelor of Science degree in Secondary Education and English, and completed her graduate studies at Bucknell University in School Psychology and Counseling. She lives in Selinsgrove with her husband, Marv, an attorney. They are parents of three grown daughters and grandparents of three boys and two girls.

*Appointed by the Supreme Court—Democrat*

### James R. Weaver

Jim Weaver began his first term as president of PSEA on September 1, 2003, after two years serving as PSEA vice president. Since 1996, Mr. Weaver has served on the PSEA Board of Directors, on PSEA's Budget Committee, and as a member of the committee to evaluate PSEA's executive director. He has also served on numerous PSEA committees, including Change That Works, Creating Collaboration, and Strategic Planning Implementation Team on Structure, and was chairperson of the Policy Committee and Accountability Workgroup.

Mr. Weaver graduated from Lock Haven College with a Bachelor of Science degree in Secondary Education—Social Studies and graduated from the Pennsylvania State University with a Master's of Education degree in Social Studies. Since 1973 he has been a Social Studies teacher in the State College Area School District, and since 1999, he has been the coordinator for the Social Studies Department. He was president of the 589-member State College Area Education Association (SCAEA) from 1994–2001. Before becoming SCAEA president, Mr. Weaver served as vice president and chief negotiator. As SCAEA president, he was instrumental in bringing collaborative bargaining to the district. He also instituted

weekly newsletters and was involved in helping to organizing the State College Educational Support Personnel Association in 1998.

In 1997, Mr. Weaver was elected president of Central Region PSEA. He led the reorganization of the region governance to bring communications and activities closer to the cluster and local levels. He has been an instructor of Organizational Success at PSEA's Summer Leadership Conference, and since 1990 he has been a delegate to the NEA Representative Assembly. Mr. Weaver also served as a member of the PSEA Board negotiations team in contract negotiations with the Staff Organization.

In 2000, Mr. Weaver was the recipient of the House of Representatives citation for involvement and participation in the Gift of Time for Children program. Since 2001, he has served as a member of the state board of EconomicsPA, and has been its treasurer since 2004. In 2002 he completed the Education Policy Fellowship Program, and in 2004 was the recipient of the EPFP Distinguished Alumni Service Award.

In 2005 Mr. Weaver was appointed to the Penn State Public Broadcasting Board of Representatives and to the Pennsylvania Judicial Conduct Board. He is a Lifetime Honorary Member of the Pennsylvania PTA.

*Appointed by Supreme Court—Democrat*

### Chief Counsel Joseph A. Massa, Jr.

Joseph A. Massa, Jr. became Chief Counsel of the Judicial Conduct Board on March 4, 2002.

Mr. Massa's professional career has been diverse. Admitted to the Bar on May 1, 1969, Mr. Massa opened a private law practice and was engaged in the general practice of

law with a high concentration in family, civil, and criminal litigation. In addition to his private practice, Mr. Massa served as Warren/Forest County Public Defender from 1969 to 1989; as a three-term District Attorney for Warren County from 1990 through 2001; and as solicitor for Youngsville Borough and the Warren County School District.

He is a graduate of the University of Notre Dame with a Bachelor's degree in Economics and the Marshall School of Law of Cleveland State University. He is a member of the American, Pennsylvania, and Dauphin County Bar Associations, the Association of Trial Lawyers of America, and the Association of Judicial Disciplinary Counsel. Mr. Massa is a past president of the Warren County Bar Association, and has served on the Pennsylvania Attorney General's Task Force for the Protection of Older Pennsylvanians. He was an adjunct instructor in criminal law at the Pennsylvania State University, Indiana University of Pennsylvania, and Edinboro University of Pennsylvania.

As a native of Warren County, where he lived and raised his children, Mr. Massa was involved not only in Northwestern Pennsylvania legal, business, and community enterprises, but also contributed his support to the educational, political, religious, and non-profit endeavors within his county.

Mr. Massa was co-founder of Warren County Students Against Drunk Driving and of the Warren County School District Law Enforcement Liaison Team. He received the Warren County Chamber of Commerce Award for Exemplary Service to the community.

He and his wife, Rosemarie, reside in New Cumberland, and have three grown children and two grandchildren.



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# LETTER FROM THE CHAIR

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## Judicial Conduct Board Commonwealth of Pennsylvania

301 Chestnut Street, Suite 403  
Harrisburg, PA 17101

MARK C. SCHULTZ, ESQUIRE  
CHAIRPERSON

(717) 234-7911

To the Citizens of Pennsylvania:

On behalf of the Judicial Conduct Board, I am pleased to present this report summarizing the work of the Board. During 2005, the Board opened 508 complaints and disposed of 490. Of these complaints, 456 were dismissed after preliminary investigation, 11 were dismissed after full investigation and/or letter of counsel, and 19 were resolved upon the issuance of letters of caution. Formal charges and prosecutions were initiated in four matters.

Let me also bring you up to date with some non-statistical news. Francis J. Puskas II, an Assistant Counsel, was elevated to Deputy Chief Counsel. Daniel T. Reimer was appointed Assistant Counsel, replacing Lisa D. McClain who joined the Pennsylvania Gaming Control Board. Ms. McClain capably served as Assistant Counsel for more than nine years.

During the past year, the Board has made numerous presentations to the judiciary throughout many counties across Pennsylvania. This outreach is designed to acquaint judicial officers with changes in Board processes, and to identify frequently occurring complaints that the Board receives. This outreach is ongoing in order to meet with judicial officers, bar associations, and other groups in all counties statewide. Further informational programs are being planned for outreach to the legal community and to the public. The Board believes that education about the mission and operations of the Board will improve public and judicial knowledge of and confidence in Pennsylvania's system for processing complaints alleging judicial ethical misconduct.

I am most grateful to our Board members, who come from diverse backgrounds, for their dedicated and uncompensated service. Pennsylvania is fortunate to have such superbly qualified and distinguished Board members who give so much of their time and talent to Board issues. Appreciation is also due to our equally talented and dedicated Chief Counsel and staff for all they have done to serve the Commonwealth with their uncompromising commitment to excellence.

The individual proceedings of the Judicial Conduct Board carry a statutory requirement of confidentiality. It is hoped, nevertheless, that the information included in this report, which is available to the public, will assist both the public in understanding the operation of the Judicial Conduct Board and judicial officers and staff in understanding the nature and issues which come before the Judicial Conduct Board.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark C. Schultz".

Mark C. Schultz, Esquire  
Chair



# 10 CHIEF COUNSEL'S MESSAGE

## A MESSAGE FROM CHIEF COUNSEL:

I am pleased to present this Annual Report of the Judicial Conduct Board of Pennsylvania for Calendar Year 2005. This Report provides a general reference document that reflects the hard work and dedicated service of the Board and staff as well as providing an overview of the Commonwealth's judicial discipline system. This Report also serves to highlight noteworthy accomplishments that took place during what has been both a very busy and productive year.

In 2005, Pennsylvania had four cases wherein the Board filed formal charges which led to the imposition of public sanctions by the Court of Judicial Discipline.

Misconduct led to the removal of two former judicial officers in 2005 by the Court of Judicial Discipline. *In re: Former Magistrate Moira C. Harrington*, 873 A.2d 875 (Pa.Ct.Jud.Disc. 2005) (admitted to parking her car at expired parking meters and placing on her windshield parking tickets of other vehicles) – barred from holding a judicial office for five (5) years; and *In re: Magisterial District Judge Allan Clifford Berkheimer*, 877 A.2d 599 (Pa.Ct.Jud.Disc. 2005) (routine use of improper and offensive language in office in dealing with staff and others and having employees send congratulatory notes to constituents mentioned in local newspaper).

Two judges received public reprimands by the Court of Judicial Discipline. *In re: Magisterial District Judge Edward E. Hartman*, 873 A.2d 867 (Pa.Ct.Jud.Disc. 2005) (working to have his wife appointed as successor; utilizing office and staff for charitable fund-raising); and *In re: Judge William R. Shaffer*, 885 A.2d 696 (Pa.Ct.Jud.Disc. 2005) (failure to dispose of matters which were ripe for disposition for periods ranging from six months to 34 months in nine divorce and child custody cases; and filing four inaccurate semi-annual 703 Reports on which he failed to list cases which were more than 90 days overdue for decision).

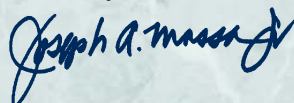
In reviewing the statistics contained in this Report, we are aware that each number represents a matter of considerable significance to a respondent judge and to the public. We are also mindful of the commitment each Board member makes to uphold the integrity and independence of the Judiciary, and, when needed, to take appropriate action. We are determined that there be a free and independent Judiciary—with accountability; and, at the same time, we are sensitive to the individual judge's right to fairness and confidentiality.

I would also like to take this opportunity to recognize the dedication of the Board's valued staff and the enthusiastic leadership of our distinguished uncompensated Board members, who handle each matter with the utmost professionalism. The individual and collective efforts are a considerable service to the Judiciary and the citizens of the Commonwealth of Pennsylvania. The driving force at the Judicial Conduct Board continues to be a *commitment to excellence*.

The staff of the Board extends its warmest wishes and bids a fond farewell to the following Board members whose terms expired during the year: Honorable Samuel J. Magaro (former Chair), Honorable John J. Musmanno, Leo P. Bigley, and John R. Cellucci.

It is my pleasure and honor to serve as Chief Counsel and as we look back on a year of achievement that we mark in these pages—we likewise look forward with anticipation to the challenges and rewards that lie ahead.

Sincerely,



Joseph A. Massa, Jr.  
Chief Counsel

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# MISSION STATEMENT

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The Judicial Conduct Board is the state agency responsible by constitutional mandate for investigating complaints of misconduct against judges of Pennsylvania's unified judicial system and, where appropriate, filing formal charges against those judges found to have engaged in unethical behavior.

The members and staff of the Judicial Conduct Board take their duties to the citizens and judiciary of Pennsylvania very seriously. The Board is committed to preserving the honor, dignity, independence, and integrity of Pennsylvania's judiciary. Political affiliation, race, color, age, national origin, sex, sexual orientation, ancestry, religious creed, disability, and the position or status of the complainant or judge, are not considerations in reviewing cases. The Board's duties to the public require the honesty, intelligence, professionalism and diligence of every Board and staff member.

The Board and its staff investigates every allegation made against a Pennsylvania judge. This procedure is an essential safeguard to the integrity of, and public confidence in, the judicial process. Judges are held to a high standard of ethical conduct as prescribed by the laws of Pennsylvania, including the Code of Judicial Conduct, and the Board and its employees strive to conduct themselves in a similar manner.



# OVERVIEW OF THE BOARD

## Authority of the Board

The Judicial Conduct Board (formerly the Judicial Inquiry and Review Board) was created by an amendment to the Pennsylvania Constitution adopted on May 18, 1993 and declared in effect by the Governor's Office on August 11, 1993. It is the independent state agency responsible for investigating allegations of judicial misconduct or disability or impairment.

The Board has jurisdiction over Pennsylvania Supreme Court Justices, Superior and Commonwealth Court Judges, Common Pleas Court Judges, Philadelphia Municipal and Traffic Court Judges, and Magisterial District Judges. The Board has no jurisdiction over federal judges and magistrates, administrative hearing officers for state agencies, or private mediators, arbitrators, or masters.

## The Board's Unique Role

Under the Pennsylvania State Constitution, the Board is the only agency of state government with the authority to investigate judges for ethical misconduct. Its disciplinary role is unique. The Board's system has served Pennsylvania well since its inception in 1993. Some judges have been publicly disciplined for judicial misconduct, others have been confidentially cautioned, and a number have resigned while under inquiry. It is undoubtedly fair to state that the Pennsylvania Judiciary has become more sensitive to its ethical obligations, and that public confidence in the judiciary has consequently improved.

## Members of the Board

There are 12 members of the Board, serving staggered four-year terms, as follows:

- Six citizen members who are

neither attorneys nor judges;

- Three judges, one from each of the following court levels: appellate, common pleas, and magisterial district judge, and
- Three attorneys who are not judges.

Members meet regularly to conduct Board business and receive no compensation for their service.

One of the critical features of the Board's system is its structural independence. The 12 board members are appointed to staggered four-year terms by various designating authorities—the Governor and the Pennsylvania Supreme Court—neither of whom controls a majority.

## Governing Legislation

The Board is governed by Article V, Section 18 of the Pennsylvania Constitution, Chapter 21, Subchapter A of Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes (Appendix I herein). As part of the judiciary and as an independent entity having its own constitutional and statutory provisions regarding confidentiality of papers, records, and proceedings, the Board is not governed by the Pennsylvania Public Information Act, the Open Meetings Act, or the Pennsylvania Administrative Code.

## Defining Judicial Misconduct

Article V, Section 18 of the Pennsylvania Constitution defines judicial misconduct as the "willful or persistent violation of rules promulgated by the Supreme Court of Pennsylvania, incompetence in performing the duties of the office, willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or

administration of justice." The Code of Judicial Conduct appears herein at Appendix II.

Judicial misconduct could arise from a violation of the Pennsylvania Constitution, the Pennsylvania Penal Code, the Pennsylvania Code of Judicial Conduct, the Rules Governing Standards of Conduct of Magisterial District Judges, or rules promulgated by the Supreme Court of Pennsylvania. It could occur through the judge's failure to cooperate with the Board. Other examples of judicial misconduct include inappropriate or demeaning courtroom conduct, such as yelling, profanity, gender bias, or racial slurs. It could be improper *ex parte* communication with only one of the parties or attorneys in a case, a public comment regarding a pending case, or a failure to recuse or disqualify oneself in a case where the judge has an interest in the outcome. It could involve ruling in a case in which the parties, attorneys, or appointees are related within a prohibited degree of kinship to the judge. Judicial misconduct could occur through a judge's failure to cooperate with respect to his or her obligations arising from a Board's inquiry, or failure to abide by any provision of a voluntary agreement to resign in lieu of disciplinary action.

Judicial misconduct could also arise from out-of-court activities, including theft, driving while intoxicated, improper financial or business dealings, sexual harassment, or official oppression, and is subject to the same review by the Board.

## Sources of Complaints and Allegations

The Board has the duty to consider allegations from any source, including an individual, a news article, or information received in the course of



# OVERVIEW OF THE BOARD

an investigation. Although the Board does accept anonymous complaints, they are much more difficult to fully investigate.

## Board Limitations

The Board cannot exercise appellate review of a case or change the decision or ruling of any court, nor can the Board intervene in a pending case or proceeding. For example, if the Board finds a judge's actions to be misconduct, the Board can only file formal charges and seek appropriate sanctions against the judge, which could include the judge's removal from the bench. However, even removal would not change the judge's ruling in the underlying case. Only the appellate process is empowered to change the decision of a court.

Likewise, the Board cannot provide individual legal assistance or advice to a complainant. The Board cannot remove a judge from a case. The Board cannot award damages or provide monetary relief to complainants.

## Board Investigations and Actions

Cases are reviewed, analyzed, and investigated by the Board staff. The first step in an investigation involves a preliminary inquiry, which may include interviews with the complainant, attorneys, and other witnesses, and the review of relevant documents. The full Board then considers the results of the investigation in reviewing the complaint. The Board has several options available when deciding whether to take action on a case. At this stage, the Board is most likely to make one of two choices:

- Dismiss the complaint because it is clear that the allegations do not warrant disciplinary actions

against the accused judge; or

- Authorize a full investigation to determine if there is "clear and convincing evidence" of misconduct.

After a full investigation is authorized and conducted, the Board makes one of two choices:

- Dismiss the complaint because there is not "clear and convincing evidence" of judicial misconduct; or
- File formal charges against the accused judge with the Court of Judicial Discipline following a determination that there is "clear and convincing evidence" of judicial misconduct.

The types of actions that could be taken by the Court of Judicial Discipline include dismissal, sanction, suspension, acceptance of a voluntary agreement to resign from judicial office in lieu of disciplinary action, and removal from the bench. A detailed discussion of the Board's procedures for analyzing complaints and allegations appears at Section II. The Complaint Process in this annual report is also presented in Section II. The number and types of action taken by the Board in fiscal year 2005 are presented in the summary of Board Activity in Section IV.

## Board Organization and Staff

The Board has eight staff positions, including the Chief Counsel, two attorneys, and five support staff. All Board staff members are full-time Commonwealth State employees.

The Board's legal staff, which consists of attorneys, a paralegal, and investigators, is responsible for the evaluation and investigation of complaints. The attorneys are primarily responsible for reviewing and evaluating new complaints. The

investigators are primarily responsible for conducting in-house and on-site investigations. The paralegal is responsible for performing legal research.

The three attorneys serve as trial counsel during proceedings before the Court of Judicial Discipline and are responsible for preparing cases and presenting the evidence that supports the charges before the Court of Judicial Discipline.

The Chief Counsel heads the staff and reports directly to the Board. The Chief Counsel is also the primary liaison between the Board and the judiciary, the public, and the media.

## Outreach and Education

In 2005, the Chief Counsel and Board members made numerous presentations at judicial training courses and court-staff conferences, describing the Board and discussing various forms of judicial misconduct.

## Board Website

The Board's Website appears at [www.jcbpa.org](http://www.jcbpa.org). The Website provides downloadable complaint forms. The Website also offers answers to frequently-asked questions regarding the Board, such as its composition, structure, and jurisdiction; the judicial complaint process; and a description of the range of decisions the Court of Judicial Discipline can make, from dismissal to sanction. Further, the Website provides links of interest to other Websites dealing with judicial ethics.

Also included are the Board's governing provisions: Code of Judicial Conduct; Pennsylvania Constitution, Article V, Section 18, Rules Governing Standards of Conduct of Magisterial District Judges; and other pertinent rules and codes.



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## OVERVIEW OF THE BOARD

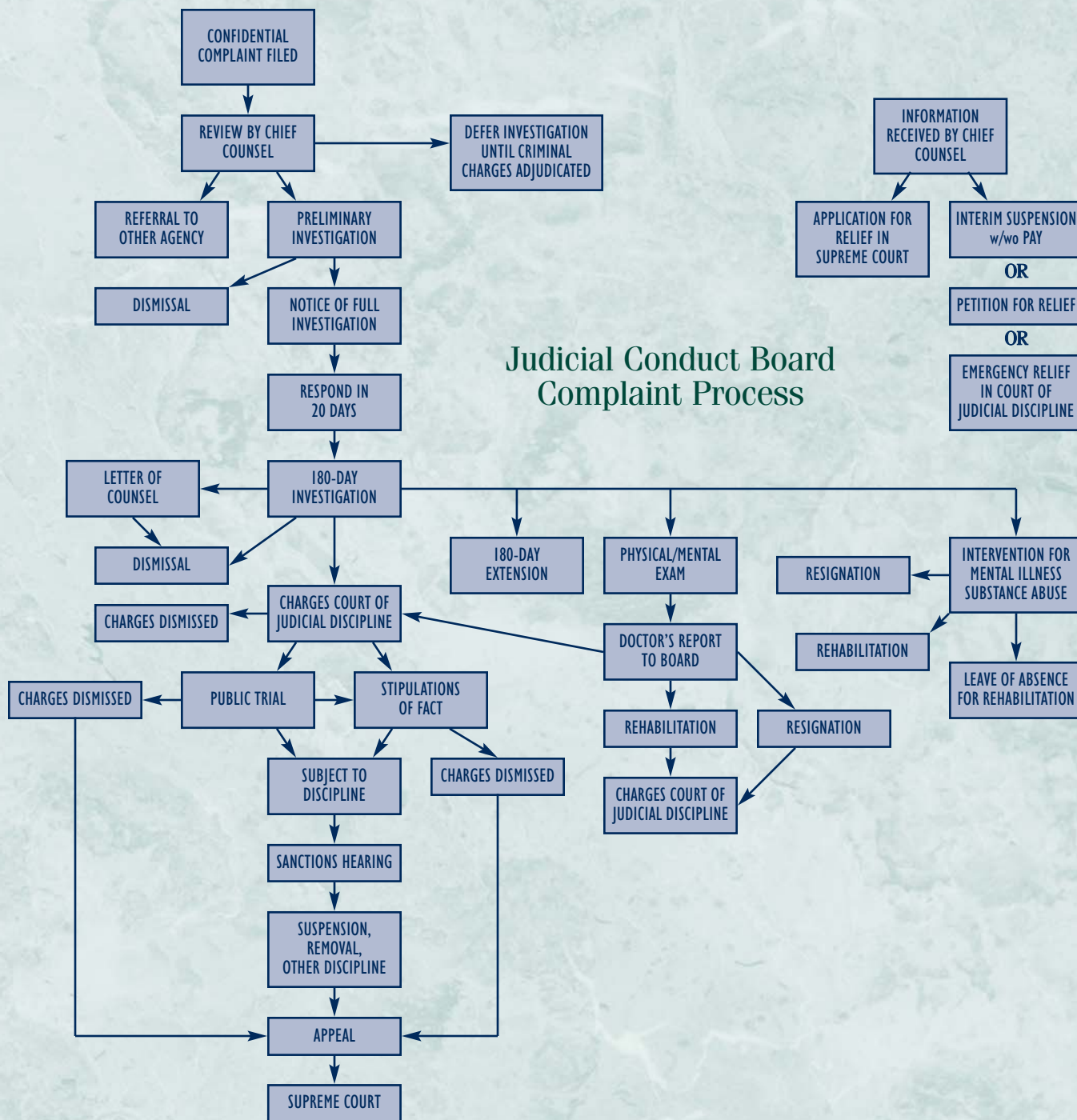
### Public Information

The availability of information and records maintained by the Board is governed by Article V, Section 18(a)(8) of the Pennsylvania Constitution.

Generally, Board records are confidential. All Board meetings and proceedings are closed to the public to protect complainants from retaliation by accused judges and judges from the embarrassment of

complaints that have no merit.

Once formal charges are filed with the Court of Judicial Discipline, the case is no longer confidential and all pleadings and proceedings are open to the public.



# CONFIDENTIALITY OF BOARD PROCEEDINGS

Board proceedings are strictly confidential, including the fact that there is a complaint or investigation, as provided in Article V, Section 18(a)(8) of the Constitution of the Commonwealth of Pennsylvania, and Rule 17 of the Judicial Conduct Board Rules of Procedure (J.C.B.R.P.).

## SUMMARY OF BOARD ACTIVITY AND STATISTICAL DATA FOR 2005

### Judicial Positions

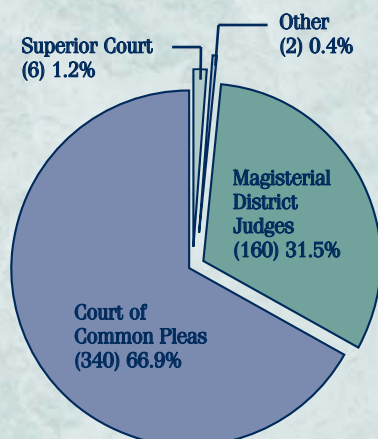
In 2005, there were 1,215 judgeships within the Board's jurisdiction.

	ACTIVE JUDGES	SENIOR JUDGES
Supreme Court	7	0
Superior Court	15	8
Commonwealth	9	7
Common Pleas	421	84
Magisterial District Judges	555	69
Philadelphia Municipal Court	25	6
Philadelphia Traffic Court	7	2
<b>TOTAL</b>	<b>1,039</b>	<b>176</b>

### New Complaints—2005

The Board opened 508 cases in 2005. The following graph shows the breakdown of those cases by type of judicial officer.

**LEVEL OF JUDICIAL OFFICER**



The Board also received complaints concerning individuals that did not come under Board jurisdiction: federal judges, former judges, workers' compensation judges, other government officials, and miscellaneous individuals. Board staff responded to each of these complaints and when appropriate, the Board made referrals. These complaints were not opened as Board cases and are therefore not included in the number of opened cases.

### Notice of Full Investigation

If, after a preliminary inquiry into a case, the Board feels there is sufficient evidence that judicial misconduct may have occurred, it will issue a Notice of Full Investigation to the judicial officer. The judicial officer will then have an opportunity to respond to the allegations. In 2005, the Board issued 20 Notices of Full Investigation.

### Complaint Dispositions

The Board disposed of 490 cases in 2005.

#### Dismissed After Legal Review

Some complainants alleged legal error not involving misconduct, or expressed dissatisfaction with a judge's discretionary handling of judicial duties. These types of complaints are dismissed after legal review.

#### Dismissed After Preliminary Inquiry

Of the 490 cases closed in 2005, 456 were dismissed after preliminary inquiry. These files had insufficient facts that, even if true, would not constitute judicial misconduct. Investigation showed that the allegations were unfounded or not provable, or the judge gave an adequate explanation of the situation.

#### Dismissed After Full Investigation

Of the 490 cases closed in 2005, 11 were dismissed after full investigation and/or issued Letters of Counsel. In these cases there was enough evidence after the preliminary inquiry to warrant a full investigation, but after the full investigation there was not clear and convincing evidence that the alleged misconduct did occur.

#### Letter of Caution

The Board issued 19 Letters of Caution in 2005. Letters of Caution are issued as private warnings of judicial misconduct. The judicial officer is not required to sign or accept a Letter of Caution.

#### Letter of Counsel

The Board issued 10 Letters of Counsel in 2005. Letters of Counsel are issued in cases where there is sufficient evidence of judicial



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## SUMMARY OF BOARD ACTIVITY AND STATISTICAL DATA FOR 2005

misconduct, but the evidence suggests that it was an isolated incident. The Letter of Counsel is a private reprimand and is subject to the judicial officer's acceptance.

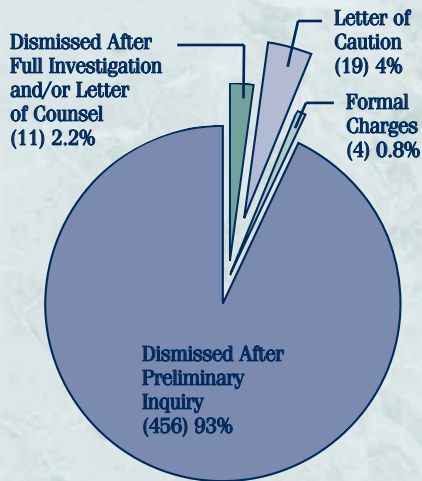
### Formal Charges

In four of the 490 closed cases in 2005, the Board filed formal charges with the Court of Judicial Discipline. In these cases, the Board determined there was clear and convincing evidence that judicial misconduct had occurred.

### Five-Year Statistical Summary

Year	Complaints Received	Notices of Full Investigation Issued	Complaints Disposed	Formal Charges Filed
2001	556	23	612	4
2002	577	11	307	6
2003	564	15	303	4
2004	556	18	528	6
2005	508	20	490	4
Average	552	17	447	5

### COMPLAINT DISPOSITION



### Samples of Judicial Misconduct

- Impatient, undignified, discourteous behavior or demeanor (on bench)
- Bias; conflict of interest; failure to recuse
- Ex parte or other improper communication without all parties present
- Presiding while intoxicated/ drinking during court hours
- Public comment on pending or impending court matters
- Sexual harassment
- Failure to supervise court staff; administrative failures
- Use of court resources for personal gain
- Delay in performing judicial duties or rendering decisions
- Attempting to obtain favorable treatment; off-bench use of prestige of office
- Improper personal conduct; criminal conduct
- Campaign conduct
- Inappropriate political activity (not related to judge's campaign for judicial office)
- Failure to cooperate with board; lying to board; asking witness to lie

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## SELECTED PROVISIONS OF THE CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA

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### ARTICLE V

#### §1. UNIFIED JUDICIAL SYSTEM

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal and traffic courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in this unified judicial system.

*Adopted April 23, 1968.*

#### §2. SUPREME COURT

The Supreme Court

- (a) shall be the highest court of the Commonwealth and in this court shall be reposed the supreme judicial power of the Commonwealth;
- (b) shall consist of seven justices, one of whom shall be the Chief Justice; and
- (c) shall have such jurisdiction as shall be provided by law.

*Adopted April 23, 1968.*

#### §10. JUDICIAL ADMINISTRATION

- (a) The Supreme Court shall exercise general supervisory and administrative authority over all the courts and justices of the peace, including authority to temporarily assign judges and justices of the peace from one court or district to another as it deems appropriate.
- (b) The Supreme Court shall appoint a court administrator and may appoint such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of all courts and justices of the peace.
- (c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court of justice of the peace,

including the power to provide for assignment and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the judicial branch, if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.

[text omitted here]

*Adopted April 23, 1968.*

#### §16. COMPENSATION AND RETIREMENT OF JUSTICES, JUDGES AND JUSTICES OF THE PEACE

[text omitted here]

- (b) Justices, judges and justices of the peace shall be retired upon attaining the age of 70 years. Former and retired justices, judges and justices of the peace shall receive such compensation as shall be provided by law. Except as provided by law, no salary, retirement benefit or other compensation, present or deferred, shall be paid to any justice, judge or justice of the peace who, under section 18 or under Article VI, is suspended, removed or barred from holding judicial office for conviction of a felony or misconduct in office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute.

[text omitted here]

*Adopted April 23, 1968.  
Amended May 18, 1993.*

#### §17. PROHIBITED ACTIVITIES

- (a) Justices and judges shall devote full time to their judicial duties, and shall not engage in the practice of law, hold office in a political party or political



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organization, or hold an office or position of profit in the government of the United States, the Commonwealth or any municipal corporation or political subdivision thereof, except in the armed service of the United States or the Commonwealth.

- (b) Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.
- (c) No justice, judge or justice of the peace shall be paid or accept for the performance of any judicial duty or for any service connected with his office, any fee, emolument or perquisite other than the salary and expenses provided by law.
- (d) No duties shall be imposed by law upon the Supreme Court or any of the justices thereof or the Superior Court or any of the judges thereof, except such as are judicial, nor shall any of them exercise any power of appointment except as provided in this Constitution.

*Adopted April 23, 1968.*

## §18. SUSPENSION, REMOVAL, DISCIPLINE AND OTHER SANCTIONS

- (a) There shall be an independent board within the Judicial Branch, known as the Judicial Conduct Board, the composition, powers and duties of which shall be as follows:
  - (1) The board shall be composed of 12 members, as follows: two judges, other than senior judges, one from the courts of common pleas and the other from either the Superior Court or the Commonwealth Court, one justice of the peace who need not be a member of the bar of the Supreme Court, three non-judge members of the bar of the Supreme Court and six non-lawyer electors.
  - (2) The judge from either the Superior Court or the Commonwealth Court, the justice of the peace, one non-judge member of the bar of the Supreme Court and three non-lawyer electors shall be appointed to the board by the Supreme Court. The judge from the courts of common pleas, two non-judge members of the bar of the Supreme Court and three non-lawyer electors shall be appointed to the board by the Governor.
  - (3) Except for the initial appointees whose terms shall be provided by the schedule to this article, the members shall serve for terms of four years. All members must be residents of this Commonwealth. No more than three of the six members appointed by the Supreme Court may be registered in the same political party. No more than three of the six members appointed by the Governor may be registered in the same political party. Membership of a judge or justice of the peace shall terminate if the member ceases to hold the judicial

position that qualified the member for the appointment. Membership shall terminate if a member attains a position that would have rendered the member ineligible for appointment at the time of the appointment. A vacancy shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed. No member may serve more than four consecutive years but may be reappointed after a lapse of one year. The Governor shall convene the board for its first meeting. At that meeting and annually thereafter, the members of the board shall elect a chairperson. The board shall act only with the concurrence of a majority of its members.

- (4) No member of the board, during the member's term, may hold office in a political party or political organization. Except for a judicial member, no member of the board, during the member's term, may hold a compensated public office or public appointment. All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.
- (5) The board shall prescribe general rules governing the conduct of members. A member may be removed by the board for a violation of the rules governing the conduct of members.
- (6) The board shall appoint a chief counsel and other staff, prepare and administer its own budget as provided by law, exercise supervisory and administrative authority over all board staff and board functions, establish and promulgate its own rules of procedure, prepare and disseminate an annual report and take other actions as are necessary to ensure its efficient operation. The budget request of the board shall be made by the board as a separate item in the request submitted by the Supreme Court on behalf of the Judicial Branch to the General Assembly.
- (7) The board shall receive and investigate complaints regarding judicial conduct filed by individuals or initiated by the board; issue subpoenas to compel testimony under oath of witnesses, including the subject of the investigation, and to compel the production of documents, books, accounts and other records relevant to the investigation; determine whether there is probable cause to file formal charges against a justice, judge or justice of the peace for conduct proscribed by this section; and present the case in support of the charges before the Court of Judicial Discipline.
- (8) Complaints filed with the board or initiated by the board shall not be public information. Statements, testimony, documents, records or other information or evidence acquired by the board in the conduct of an investigation shall not be public information. A justice, judge or justice of the peace who is the subject of a complaint filed with the



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board or initiated by the board or of an investigation conducted by the board shall be apprised of the nature and content of the complaint and afforded an opportunity to respond fully to the complaint prior to any probable cause determination by the board. All proceedings of the board shall be confidential except when the subject of the investigation waives confidentiality. If, independent of any action by the board, the fact that an investigation by the board is in progress becomes a matter of public record, the board may, at the direction of the subject of the investigation, issue a statement to confirm that the investigation is in progress, to clarify the procedural aspects of the proceedings, to explain the rights of the subject of the investigation to a fair hearing without prejudice or to provide the response of the subject of the investigation to the complaint. In acting to dismiss a complaint for lack of probable cause to file formal charges, the board may, at its discretion, issue a statement or report to the complainant or to the subject of the complaint, which may contain the identity of the complainant, the identity of the subject of the complaint, the contents and nature of the complaint, the actions taken in the conduct of the investigation and the results and conclusions of the investigation. The board may include with a report a copy of information or evidence acquired in the course of the investigation.

(9) If the board finds probable cause to file formal charges concerning mental or physical disability against a justice, judge or justice of the peace, the board shall so notify the subject of the charges and provide the subject with an opportunity to resign from judicial office, or when appropriate, to enter a rehabilitation program prior to the filing of the formal charges with the Court of Judicial Discipline.

(10) Members of the board and its chief counsel and staff shall be absolutely immune from suit for all conduct in the course of their official duties. No civil action or disciplinary complaint predicated upon the filing of a complaint or other documents with the board or testimony before the board may be maintained against any complainant, witness or counsel.

(b) There shall be a Court of Judicial Discipline, the composition, powers and duties of which shall be as follows:

(1) The court shall be composed of a total of eight members as follows: three judges other than senior judges from the courts of common pleas, the Superior Court or the Commonwealth Court, one justice of the peace, two non-judge members of the bar of the Supreme Court and two non-lawyer electors. Two judges, the justice of the peace and one non-lawyer elector shall be appointed to the court by the Supreme Court. One judge, the two non-judge

members of the bar of the Supreme Court and one non-lawyer elector shall be appointed to the court by the Governor.

(2) Except for the initial appointees whose terms shall be provided by the schedule to this article, each member shall serve for a term of four years; however, the member, rather than the member's successor, shall continue to participate in any hearing in progress at the end of the member's term. All members must be residents of this Commonwealth. No more than two of the members appointed by the Supreme Court may be registered in the same political party. No more than two of the members appointed by the Governor may be registered in the same political party. Membership of a judge or justice of the peace shall terminate if the judge or justice of the peace ceases to hold the judicial position that qualified the judge or justice of the peace for appointment. Membership shall terminate if a member attains a position that would have rendered that person ineligible for appointment at the time of the appointment. A vacancy on the court shall be filled by the respective appointing authority for the remainder of the term to which the member was appointed in the same manner in which the original appointment occurred. No member of the court may serve more than four consecutive years but may be reappointed after a lapse of one year.

(3) The court shall prescribe general rules governing the conduct of members. A member may be removed by the court for a violation of the rules of conduct prescribed by the court. No member, during the member's term of service, may hold office in any political party or political organization. Except for a judicial member no member of the court, during the member's term of service, may hold a compensated public office or public appointment. All members of the court shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.

(4) The court shall appoint staff and prepare and administer its own budget as provided by law and undertake actions needed to ensure its efficient operation. All actions of the court, including disciplinary action, shall require approval by a majority vote of the members of the court. The budget request of the court shall be made as a separate item in the request by the Supreme Court on behalf of the Judicial Branch to the General Assembly. The court shall adopt rules to govern the conduct of proceedings before the court.

(5) Upon the filing of formal charges with the court by the board, the court shall promptly schedule a hearing or hearings to determine whether a sanction should be imposed against a justice, judge or justice of the peace pursuant to the provisions of this section. The court shall be a court of record,



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with all the attendant duties and powers appropriate to its function. Formal charges filed with the court shall be a matter of public record. All hearings conducted by the court shall be public proceedings conducted pursuant to the rules adopted by the court and in accordance with the principles of due process and the law of evidence. Parties appearing before the court shall have a right to discovery pursuant to the rules adopted by the court and shall have the right to subpoena witnesses and to compel the production of documents, books, accounts and other records as relevant. The subject of the charges shall be presumed innocent in any proceeding before the court, and the board shall have the burden of proving the charges by clear and convincing evidence. All decisions of the court shall be in writing and shall contain findings of fact and conclusions of law. A decision of the court may order removal from office, suspension, censure or other discipline as authorized by this section and as warranted by the record.

(6) Members of the court and the court's staff shall be absolutely immune from suit for all conduct in the course of their official duties, and no civil action or disciplinary complaint predicated on testimony before the court may be maintained against any witness or counsel.

(c) Decisions of the court shall be subject to review as follows:

(1) A justice, judge or justice of the peace shall have the right to appeal a final adverse order of discipline of the court. A judge or justice of the peace shall have the right to appeal to the Supreme Court in a manner consistent with rules adopted by the Supreme Court; a justice shall have the right to appeal to a special tribunal composed of seven judges, other than senior judges, chosen by lot from the judges of the Superior Court and Commonwealth Court who do not sit on the Court of Judicial Discipline or the board, in a manner consistent with rules adopted by the Supreme Court. The special tribunal shall hear and decide the appeal in the same manner in which the Supreme Court would hear and decide an appeal from an order of the court.

(2) On appeal, the Supreme Court of special tribunal shall review the record of the proceedings of the court as follows: on the law, the scope of review is plenary; on the facts, the scope of review is clearly erroneous; and, as to sanctions, the scope of review is whether the sanctions imposed were lawful. The Supreme Court or special tribunal may revise or reject an order of the court upon a determination that the order did not sustain this standard of review; otherwise, the Supreme Court or special tribunal shall affirm the order of the court.

(3) An order of the court which dismisses a complaint

against a judge or justice of the peace may be appealed by the board to the supreme court, but the appeal shall be limited to questions of law. An order of the court which dismisses a complaint against a justice of the supreme Court may be appealed by the board to a special tribunal in accordance with paragraph (1), but the appeal shall be limited to questions of law.

(4) No justice, judge or justice of the peace may participate as a member of the board, the court, a special tribunal or the Supreme Court in any proceeding in which the justice, judge or justice of the peace is a complainant, the subject of a complaint, a party or a witness.

(d) A justice, judge or justice of the peace shall be subject to disciplinary action pursuant to this section as follows:

(1) A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of a felony; violation of section 17 of this article; misconduct in office; neglect or failure to perform the duties of office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity or is prohibited by law; or conduct in violation of a canon or rule prescribed by the Supreme Court. In the case of a mentally or physically disabled justice, judge or justice of the peace, the court may enter an order of removal from office, retirement, suspension or other limitations on the activities of the justice, judge or justice of the peace as warranted by the record. Upon a final order of the court for suspension without pay or removal, prior to any appeal, the justice, judge or justice of the peace shall be suspended or removed from office; and the salary of the justice, judge or justice of the peace shall cease from the date of the order.

(2) Prior to a hearing, the court may issue an interim order directing the suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

(3) A justice, judge or justice of the peace convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section shall forfeit automatically his judicial office and thereafter be ineligible for judicial office.

(4) A justice, judge or justice of the peace who files for nomination for or election to any public office other



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than a judicial office shall forfeit automatically his judicial office.

- (5) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or

justice of the peace against whom impeachment proceedings are pending in the senate shall exercise any of the duties of office until acquittal.

*Adopted April 23, 1968.  
Amended May 18, 1993.*

### CODE OF JUDICIAL CONDUCT

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*The provisions of this Chapter 33 adopted November 21, 1973, effective January 1, 1974, 3 Pa.B. 2914; amended November 21, 2005, effective immediately, 35 Pa.B. 6647, unless otherwise noted.*

#### Canon 1. JUDGES SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.

An independent and honorable judiciary is indispensable to justice in our society. Judges should participate in establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

#### Canon 2. JUDGES SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES.

- A. Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. Judges should not allow their family, social, or other relationships to influence their judicial conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should they convey or knowingly permit others to convey the impression that they are in a special position to influence the judge. Judges should not testify voluntarily as a character witness.

#### *Official Note*

*Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. Judges must avoid all impropriety*

*and appearance of impropriety. They must expect to be the subject of constant public scrutiny. They must therefore accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.*

*The testimony of judges as character witnesses injects the prestige of their office into the proceeding in which they testify and may be misunderstood to be official testimonial. This Canon, however, does not afford them a privilege against testifying in response to an official summons.*

#### Canon 3. JUDGES SHOULD PERFORM THE DUTIES OF THEIR OFFICE IMPARTIALLY AND DILIGENTLY.

The judicial duties of judges take precedence over all their other activities. Their judicial duties include all the duties of their office prescribed by law. In the performance of these duties, the following standards apply:

- A. Adjudicative responsibilities.
- (1) Judges should be faithful to the law and maintain professional competence in it. They should be unswayed by partisan interests, public clamor, or fear of criticism.
  - (2) Judges should maintain order and decorum in proceedings before them.
  - (3) Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacity, and should require similar conduct of lawyers, and of their staff,



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court officials, and others subject to their direction and control.

*Official Note*

*The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.*

- (4) Judges should accord to all persons who are legally interested in a proceeding, or their lawyers, full right to be heard according to law, and, except as authorized by law, must not consider ex parte communications concerning a pending proceeding.
- (5) Judges should dispose promptly of the business of the court.

*Official Note*

*Prompt disposition of the court's business requires judges to devote adequate time to their duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with them to that end.*

- (6) Judges should abstain from public comment about a pending proceeding in any court, and should require similar abstention on the part of court personnel subject to their direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

*Official Note*

*"Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by DR7-107 of the Code of Professional Responsibility.*

- (7) Judges should prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judge may authorize:
  - (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration;
  - (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;
  - (c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:
    - (i) the means of recording will not distract participants or impair the dignity of the proceedings; and
    - (ii) the parties have consented; and the consent to being depicted or recorded has been obtained from each witness appearing in the recording and reproductions; and
    - (iii) the reproduction will not be exhibited until after

the proceeding has been concluded and all direct appeals have been exhausted; and

- (iv) the reproduction will be exhibited only for instructional purposes in educational institutions.

- (d) the use of electronic broadcasting, televising, recording and taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions of any trial court nonjury civil proceeding, however, for the purposes of this subsection 'civil proceedings' shall not be construed to mean a support, custody or divorce proceeding. Subsection (iii) and (iv) shall not apply to nonjury civil proceedings as heretofore defined. No witness or party who expresses any prior objection to the judge shall be photographed nor shall the testimony of such witness or party be broadcast or telecast. Permission for the broadcasting, televising, recording and photographing of any civil nonjury proceeding shall have first been expressly granted by the judge, and under such conditions as the judge may prescribe in accordance with the guidelines contained in this Order.

*Official Note*

*Temperate conduct of judicial proceedings is essential to the fair administration of justice. The recording and reproduction of a proceeding should not distort or dramatize the proceeding.*

B. Administrative responsibilities.

- (1) Judges should diligently discharge their administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
- (2) Judges should require their staff and court officials subject to their direction and control to observe the standards of fidelity and diligence that apply to judges.
- (3) Judges should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

*Official Note*

*Disciplinary measures may include reporting a judge's or lawyer's misconduct to an appropriate disciplinary body.*

- (4) Judges should not make unnecessary appointments. They should exercise their power of appointment only on the basis of merit, avoiding favoritism. They should not approve compensation of appointees beyond the fair value of services rendered.

*Official Note*

*Appointees of the judge include officials such as referees, commissioner, special masters, receivers, guardians and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this subsection.*

C. Disqualification.

- (1) Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be



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questioned, including but not limited to instances where:

- (a) they have a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
- (b) they served as a lawyer in the matter in controversy, or a lawyer with whom they previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

*Official Note*

*A lawyer in a governmental agency does not necessarily have an association with other lawyers employed by that agency within the meaning of this subsection; judges formerly employed by a governmental agency, however, should disqualify themselves in a proceeding if their impartiality might reasonably be questioned because of such association.*

- (c) they know that they, individually or as a fiduciary, or their spouse or minor child residing in their household, have a substantial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
- (d) they or their spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
  - (i) is a party to the proceeding, or an officer, director, or trustee of a party;
  - (ii) is acting as a lawyer in the proceeding;

*Official Note*

*The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "their impartiality might reasonably be questioned" under Canon 3C(1), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3C(1)(d)(iii) may require the judge's disqualification.*

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding;

(2) Judges should inform themselves about their personal and fiduciary financial interests, and make a reasonable effort to inform themselves about the personal financial interests of their spouse and minor children residing in their household.

(3) For the purposes of this section:

- (a) the degree of relationship is calculated according to the civil law system;

*Official Note*

*According to the civil law system, the third degree of relationship test would, for example, disqualify judges if their or their*

*spouse's parents, grandparents, aunts or uncles, siblings, nieces or nephews or their spouses were a party or lawyer in the proceeding, but would not disqualify them if a cousin were a party or lawyer in the proceeding.*

- (b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
- (c) "financial interest" means ownership of a legal or equitable interest, if substantial, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:
  - (i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
  - (ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;
  - (iii) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a substantial "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
  - (iv) ownership of securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of securities.

*Source*

*The provisions of this Canon 3 amended September 20, 1979, effective October 1, 1979, 9 Pa.B. 3365. Immediately preceding text appears at serial page (15318).*

**Canon 4. JUDGES MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE.**

Judges, subject to the proper performance of their judicial duties, may engage in the following quasi-judicial activities, if in doing so they do not cast doubt on their capacity to decide impartially any issue that may come before them:

- A. They may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.
- B. They may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and they may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.
- C. They may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. They may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. They may make recommendations to public and private fund-granting



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agencies on projects and programs concerning the law, the legal system, and the administration of justice.

*Official Note*

*As a judicial officer and person specially learned in the law, judges are in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice. To the extent that their time permits, they are encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.*

*Extra-judicial activities are governed by Canon 5.*

**Canon 5. JUDGES SHOULD REGULATE THEIR EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THEIR JUDICIAL DUTIES.**

**A. Avocational activities.**

Judges may write, lecture, teach, and speak on non-legal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of their office or interfere with the performance of their judicial duties.

*Official Note*

*Complete separation of judges from extra-judicial activities is neither possible nor wise; they should not become isolated from the society in which they live.*

**B. Civic and Charitable Activities.**

Judges may participate in civic and charitable activities that do not reflect adversely upon their impartiality or interfere with the performance of their judicial duties. Judges may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

- (1) Judges should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before them or will be regularly engaged in adversary proceedings in any court.

*Official Note*

*The changing nature of some organizations and of their relationship to the law makes it necessary for judges regularly to reexamine the activities of each organization with which they are affiliated to determine if it is proper for them to continue their relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.*

- (2) Judges should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of their office for that purpose, but they may be listed as an officer, director, or trustee of such an organization. They should not be a speaker or the guest of honor at an organization's fund raising events, but they may attend such events.

- (3) Judges should not give investment advice to such an organization, but they may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

*Official Note*

*A judge's participation in an organization devoted to quasi-judicial activities is governed by Canon 4.*

**C. Financial activities.**

- (1) Judges should refrain from financial and business dealings that tend to reflect adversely on their impartiality, interfere with the proper performance of their judicial duties, exploit their judicial position, or involve them in frequent transactions with lawyers or persons likely to come before the court on which they serve.
- (2) Subject to the requirement of subsection (1), judges may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a family business.

*Official Note*

*The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge engaged in a family business at the time this Code becomes effective.*

- (3) Judges should manage their investments and other financial interests to minimize the number of cases in which they are disqualified. As soon as they can do so without serious financial detriment, they should divest themselves of investments and other financial interests that might require frequent disqualification.
- (4) Information acquired by judges in their judicial capacity should not be used or disclosed by them in financial dealings or for any other purpose not related to their judicial duties.

**D. Fiduciary Activities.**

Judges should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of their family, and then only if such service will not interfere with the proper performance of their judicial duties. "Member of their family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary judges are subject to the following restrictions:

- (1) They should not serve if it is likely that as a fiduciary they will be engaged in proceedings that would ordinarily come before them, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which they serve or one under its appellate jurisdiction.

*Official Note*

*The Effective Date of Compliance provision of this Code qualifies this subsection with regard to a judge who is an executor, administrator, trustee, or other fiduciary at the time this Code becomes effective.*

- (2) While acting as a fiduciary judges are subject to the same restrictions on financial activities that apply to them in their personal capacity.



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## Official Note

*Judges' obligations under this Canon and their obligations as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5C(3).*

### E. Arbitration.

Judges should not act as an arbitrator or mediator.

### F. Practice of law.

Judges should not practice law.

### G. Extra-judicial appointments.

Judges should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. Judges, however, may represent their country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

## Official Note

*Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extra-judicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judges created by today's crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.*

## Canon 6. COMPENSATION RECEIVED FOR QUASI-JUDICIAL AND EXTRA-JUDICIAL ACTIVITIES PERMITTED BY THIS CODE.

Judges may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing judges in their judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

### A. Compensation.

Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

### B. Expense reimbursement.

Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by judges and, where appropriate to the occasion, by their spouses.

## Canon 7. JUDGES SHOULD REFRAIN FROM POLITICAL ACTIVITY INAPPROPRIATE TO THEIR JUDICIAL OFFICE.

### A. Political conduct in general.

(1) A judge or a candidate for election to judicial office should not:

- (a) act as a leader or hold any office in a political organization;

- (b) make speeches for a political organization or candidate or publicly endorse a candidate for public office; except as authorized in subsection A(2);

## Official Note

*Candidates do not publicly endorse another candidate for public office by having their name on the same ticket.*

- (c) solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions, except as authorized in subsection A(2);

(2) Judges holding an office filled by public election between competing candidates, or a candidate for such office, may, only insofar as permitted by law, attend political gatherings, speak to such gatherings on their own behalf when they are a candidate for election or reelection, or speak on behalf of any judicial candidate for the same office, identify themselves as a member of a political party, and contribute to a political party or organization.

(3) Judges should resign their office when they become a candidate either in a party primary or in a general election for a non-judicial office, except that they may continue to hold their judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if they are otherwise permitted by law to do so.

(4) Judges should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

### B. Campaign conduct.

(1) Candidates, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of a merit system election:

- (a) should maintain the dignity appropriate to judicial office, and should encourage members of their family to adhere to the same standards of political conduct that apply to them;

- (b) should prohibit public officials or employees subject to their direction or control from doing for them what judges are prohibited from doing under this Canon; and except to the extent authorized under subsection B(2) or B(3), they should not allow any other person to do for them what judges are prohibited from doing under this Canon;

- (c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent their identity, qualifications, present position, or other fact.

(2) Candidates, including an incumbent judge, for a judicial



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office that is filled by public election between competing candidates should not themselves solicit or accept campaign funds, or solicit publicly stated support, but they may establish committees of responsible persons to secure and manage the expenditure of funds for their campaign and to obtain public statements of support for their candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. Candidates' committees may solicit funds for their campaign no earlier than thirty days prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis, and all fundraising activities in connection with such judicial campaign shall terminate no later than the last calendar day of the year in which the judicial election is held. Candidates should not use or permit the use of campaign contributions for the private benefit of themselves or members of their family.

- (3) Incumbent judges who are candidates for retention in or reelection to office without a competing candidate may campaign and may obtain publicly stated support and campaign funds in the manner provided in subsection B(2).

## COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT

Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate, is a judge for the purpose of this Code. All judges should comply with this Code except as provided below.

**Senior Judge.** Senior judges who receive the same compensation as full-time judges on the court from which they retired and are eligible for recall to judicial service should comply with all the provisions of this Code except Canon 5G, but they should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G. All other senior judges eligible for recall to judicial service should comply with the provisions of this Code.

This Code shall not apply to magisterial district judges and judges of the Traffic Court of the City of Philadelphia.

## Official Note

*Specific rules governing standards of conduct of magisterial district judges, and judges of the Traffic Court of the City of Philadelphia, are set forth in the Rules Governing Standards of Conduct of Magisterial District Judges.*

## EFFECTIVE DATE OF COMPLIANCE

Persons to whom this Code becomes applicable should arrange their affairs as soon as reasonably possible to comply with it. If, however, the demands on their time and the possibility of conflicts of interest are not substantial, persons who hold judicial office on the date this Code becomes effective may:

- (a) continue to act as an officer, director, or nonlegal advisor of a family business;
- (b) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of their family.

## RELIANCE ON ADVISORY OPINIONS

The Ethics Committee of the Pennsylvania Conference of State Trial Judges is designated as the approved body to render advisory opinions regarding ethical concerns involving judges, justices and other judicial officers subject to the Code of Judicial Conduct, and, although such opinions are not per se binding upon the Judicial Conduct Board, the Court of Judicial Discipline or the Supreme Court of Pennsylvania, action taken in reliance thereupon and pursuant thereto shall be taken into account in determining whether discipline should be recommended or imposed.

*Commentary: The United States Supreme Court in Republican Party of Minnesota v. White, 122 S. Ct. 2528 (2002), concluded that a canon of judicial conduct prohibiting judicial candidates from "announcing their views on disputed legal or political issues" is violative of the First Amendment of the United States Constitution.*

## Source

*The provisions of this Canon 7 amended September 9, 1991, effective September 7, 1991, 21 Pa.B. 4396; amended November 9, 1998, effective January 1, 1999, 28 Pa.B. 5849; order amended November 24, 1998, 28 Pa.B. 6069; amended November 21, 2002, effective immediately, 32 Pa.B. 5951. Immediately preceding text appears at serial pages (251691) to (251692) and (287549) to (287550).*

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#### RULE 1. INTEGRITY AND INDEPENDENCE OF JUDICIARY

An independent and honorable judiciary is indispensable to justice. Magisterial district judges should participate in establishing, maintaining and enforcing, and shall themselves observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of these rules governing standards of conduct of magisterial district judges shall be construed and applied to further that objective.

*Note*

*This rule is derived from Canon 1, American Bar Association Code of Judicial Conduct. This and the following rules governing*

*standards of conduct of magisterial district judges provide a complete and exclusive code of conduct for magisterial district judges in Pennsylvania. Those canons of the Code of Judicial Conduct of the American Bar Association thought applicable to magisterial district judges have been paraphrased in these rules, and some of the former standards of conduct rules, which were thought to be more pertinent to magisterial district judges in Pennsylvania than counterpart canons of the American Bar Association Code of Judicial Conduct, have been retained. In determining the standards that apply to them, the magisterial district judges need now consult only these rules and will not be required to consult other sources as was the case heretofore.*

*When canons of the American Bar Association Code of Judicial*



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Conduct have been paraphrased in these rules, pertinent official commentaries to those canons and those parts of the canons thought to be merely expository are set forth in the notes rather than in the rules.

*Former Rule 1, relating to the priority of judicial business, revoked Feb. 1, 1973. New Rule 1 adopted effective Feb. 1, 1973.*

*Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

### RULE 2. IMPROPRIETY AND APPEARANCE OF IMPROPRIETY TO BE AVOIDED; VOLUNTARY APPEARANCE AS CHARACTER WITNESS PROHIBITED

- A. Magisterial district judges shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Magisterial district judges shall not allow their family, social or other relationships to influence their judicial conduct or judgment. They shall not lend the prestige of their office to advance the private interest of others, nor shall they convey or permit others to convey the impression that they are in a special position to influence the judge.
- B. Magisterial district judges shall not testify voluntarily as character witnesses.

#### Note

*This rule is derived from Canon 2, American Bar Association Code of Judicial Conduct, and Pa.R.J.A. No. 1701. Public confidence in the judiciary is eroded by irresponsible or improper conduct by members of the judiciary. Magisterial district judges must avoid all impropriety and appearance of impropriety. They must expect to be the subject of constant public scrutiny. They must therefore accept restrictions on their conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.*

*The testimony of magisterial district judges as character witness injects the prestige of their office into the proceeding in which they testify and may be misunderstood to be an official testimonial. Rule 2B, however, does not afford them a privilege against testifying as character witnesses in response to a subpoena the issuance of which has been specifically allowed by the Supreme Court under Pa.R.J.A. No. 1701.*

*Former Rule 2, relating to public office and political activity, revoked Feb. 1, 1973. New Rule 2 adopted effective Feb. 1, 1973.*

*Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

### RULE 3. PRIORITY OF JUDICIAL BUSINESS

- A. Magisterial district judges shall devote the time necessary for the prompt and proper disposition of the business of their office, which shall be given priority over any other occupation, business, profession, pursuit or activity.
- B. Magisterial district judges shall not use or permit the use of the premises established for the disposition of their magisterial business for any other occupation, business, profession or gainful pursuit.

#### Note

*This rule is derived from former Rule 1.*

*Former Rule 3, relating to the prohibited practice of attorneys, revoked Feb. 1, 1973. New Rule 3 adopted effective Feb. 1, 1973.*

*Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

### RULE 4. ADJUDICATIVE RESPONSIBILITIES

- A. Magisterial district judges shall be faithful to the law and maintain competence in it. They shall be unswayed by partisan interests, public clamor or fear of criticism.
- B. Magisterial district judges shall maintain order and decorum in the proceedings before them. They shall wear judicial robes while conducting hearings and trials.
- C. Magisterial district judges shall be patient, dignified and courteous to litigants, witnesses, lawyers and others with whom they deal in their official capacity, and shall require similar conduct of lawyers, of their staff and others subject to their direction and control.
- D. Magisterial district judges shall accord to every person who is legally interested in a proceeding, or their lawyer, full right to be heard according to law and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. Magisterial district judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before them if they give notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunities to respond.

#### Note

*This rule is derived in part from Canon 3A(1)-(4) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct. Magisterial district judges are to be provided with the judicial robes required by subdivision B as part of the expense of operating their offices (see Rule 101(3)). The proscription against communications in subdivision D includes communications from lawyers, law teachers and other persons who are not participants in the proceeding, except to the limited extent permitted. It does not preclude magisterial district judges from consulting with other members of the judiciary or with court personnel whose function it is to aid the judiciary in carrying out adjudicative responsibilities.*

*Former Rule 4, relating to incompatible practices revoked Feb. 1, 1973. New Rule 4 adopted effective Feb. 1, 1973.*

*Amended Oct. 17, 1975, effective in 90 days;*

*June 30, 1982, effective 30 days after July 17, 1982;*

*Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

### RULE 5. ADMINISTRATIVE RESPONSIBILITIES

- A. Magisterial district judges shall diligently discharge their administrative responsibilities, maintain competence in judicial administration and facilitate the performance of the administrative responsibilities of their staff and of other members of the judiciary and court officials.
- B. Magisterial district judges shall require their staff to observe the standards of fidelity and diligence that apply to them.
- C. Magisterial district judges shall not make unnecessary appointments to their staff. They shall exercise any such power of appointment that they may have only on the basis of merit, avoiding nepotism and favoritism.



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## Note

*This rule is derived from Canon 3B(1), (2) and (4), American Bar Association Code of Judicial Conduct.*

*Former Rule 5, relating to the canons of judicial ethics, revoked Feb. 1, 1973. New Rule 5 adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 6. PUBLIC COMMENT

Magisterial district judges shall abstain from public comment about a proceeding pending or impending in their office or in any court, and shall require similar abstention on the part of their staff. This rule does not prohibit magisterial district judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

## Note

*This rule is derived from Canon 3A(6), the American Bar Association Code of Judicial Conduct.*

*Former Rule 6, relating to transfer of dockets and other papers, adopted effective May 1, 1970; renumbered as Rule 7 effective May 1, 1970; amended June 1, 1971; revoked Feb. 1, 1973. New Rule 6 adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 7. BROADCASTING, TELEVISIONING, RECORDING, PHOTOGRAPHY

Magisterial district judges shall prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto during sessions or recesses between sessions, except that magisterial district judges may authorize:

- (1) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record or for other purposes of judicial administration; and
- (2) the broadcasting, televising, recording or photographing of investitive or ceremonial proceedings.

## Note

*This rule is derived from Canon 3A(7)(a), (b) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct. With respect to proceedings before magisterial district judges, it did not seem desirable to include the authority for reproduction for educational purposes set forth in Canon 3A(7)(c). This rule is not intended to affect or limit Pa.R.Crim.P. 27.*

*Former Rule 6, relating to definitions, renumbered Rule 7 May 1, 1970; revoked Feb. 1, 1973. New Rule 7 adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Mar. 6, 2001, effective Apr. 1, 2001; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 8. DISQUALIFICATION

A. Magisterial district judges shall disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

- (1) they have a personal bias or prejudice concerning a

party, or personal knowledge of disputed evidentiary facts concerning the proceedings;

- (2) they served as a lawyer in the matter in controversy, or a lawyer with whom they previously practiced law served during such association as a lawyer concerning the matter, or the magisterial district judge or such lawyer has been a material witness concerning it;
- (3) they know that they, individually or as a fiduciary, or their spouse or a minor child residing in their household has a financial interest in the subject matter in controversy or in a party to the proceeding or any other interest that could be substantially affected by the outcome of the proceeding;
- (4) they or their spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:
  - (a) is a party to the proceeding, or an officer, director or trustee of a party;
  - (b) is acting as a lawyer in the proceeding;
  - (c) is known by the magisterial district judge to have an interest that could be substantially affected by the outcome of the proceeding;
  - (d) is to the knowledge of the magisterial district judge likely to be a material witness in the proceeding.

B. Magisterial district judges shall inform themselves about their personal and fiduciary financial interests and make a reasonable effort to inform themselves about the personal financial interests of their spouse and minor children residing in their household.

## Note

*This rule is derived from Canon 3C, American Bar Association Code of Judicial Conduct. For the purpose of this rule, "fiduciary" includes such relationships as executor, administrator, trustee and guardian, and "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor or other active participant in the affairs of a party, except that: (1) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the magisterial district judge participates in the management of the fund; (2) an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in securities held by the organization; (3) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or a similar proprietary interest is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest; and (4) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities. "Degree of relationship" is calculated according to the civil law system. Thus, the third degree of relationship test would, for example, disqualify the magisterial district judge if they or their spouse's parents, grandparents, uncles or aunts, siblings or nieces or nephews or their spouses were a party or a lawyer in the proceeding, but would not disqualify them if a cousin were a party or lawyer in the proceeding.*

*A lawyer in a governmental agency does not necessarily have an*



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association with other lawyers employed by that agency within the meaning of subdivision A(2). Magisterial district judges formerly employed by a governmental agency, however, should disqualify themselves in a proceeding if their impartiality might reasonably be questioned because of such association.

The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the magisterial district judge is affiliated does not of itself disqualify the magisterial district judge. Under appropriate circumstances, the fact that "their impartiality might reasonably be questioned" under subdivision A, or that the lawyer-relative is known by the magisterial district judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under subdivision A(4)(c) may require their disqualification.

*Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982. Amended Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 9. REMITTAL OF DISQUALIFICATION; MINIMIZING DISQUALIFICATION

- A. Magisterial district judges disqualified by Rule 8A(3) or (4) may, instead of withdrawing from the proceeding, disclose the basis of their disqualification. If, based on such disclosure, the parties and lawyers, independently of the participation of the magisterial district judges, all agree in writing that the relationship of the magisterial district judges is immaterial or that their financial interest is insubstantial, the magisterial district judges are no longer disqualified and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be attached to the record copy of the complaint form.
- B. Magisterial district judges shall manage their investments and other financial interests to minimize the number of cases in which they are disqualified. As soon as they can do so without serious financial detriment, they shall divest themselves of investments and other financial interests that might require frequent disqualification.

### Note

*Subdivision A is derived from Canon 3D, American Bar Association Code of Judicial Conduct. The procedure in this subdivision is designed to minimize the chance that a party or lawyer will feel coerced into an agreement. When a party is not immediately available, the magisterial district judges may proceed on the written assurance of the lawyers that their parties' consent will be subsequently filed.*

*Subdivision B is derived from Canon 5C(3), American Bar Association Code of Judicial Conduct.*

*Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 10. INFORMATION ACQUIRED IN JUDICIAL CAPACITY

Information acquired by magisterial district judges in their judicial capacity shall not be used or disclosed by them in financial dealings or for any other purpose not related to their judicial duties.

### Note

*This rule is derived from Canon 5C(7), American Bar Association Code of Judicial Conduct.*

*Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 25, 2005; amended Nov. 21, 2005.*

## RULE 11. SOLICITATION OF FUNDS

Magisterial district judges shall not solicit funds for any educational, religious, charitable, fraternal or civic organization, or use or permit the use of the prestige of their office for that purpose, but they may be listed as an officer, director or trustee of such an organization. They shall not be a speaker or the guest of honor at such an organization's public fund raising events, but they may attend such events.

### Note

*This rule is derived from Canon 5B(2), American Bar Association Code of Judicial Conduct.*

*Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 12. GIFTS AND LOANS

- A. Magisterial district judges may accept a gift incident to a public testimonial to them and books supplied by publishers on a complimentary basis for public use. Magisterial district judges or a member of their family residing in their household may accept ordinary social hospitality; a gift, bequest, favor or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not magisterial district judges; or a scholarship or fellowship awarded on the same terms applied to other applicants.
- B. Magisterial district judges or a member of their family residing in their household may accept any other gift, bequest, favor or loan only if the donor is not a party or other person whose interests have come or are likely to come before the magisterial district judge.

### Note

*This rule is derived from Canon 5C(4), American Bar Association Code of Judicial Conduct. For the purpose of this rule, "member of their family residing in their household" means any relative of the magisterial district judges by blood or marriage, or a person treated by the magisterial district judges as a member of their family, who resides in their household.*

*Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 5, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 13. INCOMPATIBLE PRACTICES

Magisterial district judges, constables and all employees assigned to or appointed by magisterial district judges shall not engage, directly or indirectly, in any activity or act incompatible with the expeditious, proper and impartial discharge of their duties, including, but not limited to, (1) in any activity prohibited by law; (2) in the collection business; or (3) in the acceptance of any premium or fee for any judicial bond. Magisterial district judges shall not exploit their judicial position for financial gain or for any business or professional advantage. Magisterial district



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judge shall not receive any fee or emolument for performing the duties of an arbitrator.

*Note*

*The next to the last sentence of this rule is derived in part from Canon 5C(1) of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct.*

*Adopted effective Feb. 1, 1973. Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; Nov. 1, 2005, effective immediately; amended Nov. 21, 2005.*

## RULE 14. PROHIBITED PRACTICE OF ATTORNEY MAGISTERIAL DISTRICT JUDGES

A. Attorneys who are magisterial district judges shall not practice before any magisterial district judge in the Commonwealth, nor shall they act as a lawyer in a proceeding in which they have served as a magisterial district judge or in any other proceeding related thereto. Nor shall they practice criminal law in the county within which their magisterial district is located. An employer, employee, partner or office associate of such magisterial district judges shall not appear or practice before them.

B. Attorneys who are magisterial district judges shall not practice before, or act as an attorney or solicitor for, any county or local municipal, governmental or quasi governmental agency, board, authority or commission operating within the Commonwealth.

*Note*

*Subdivision A of this rule is derived from former Rule 3A and Compliance Exception A(2), American Bar Association Code of Judicial Conduct. Subdivision B is derived from former Rule 3B. This rule contains all the prohibitions upon the practice of law by attorney magisterial district judges that were thought necessary.*

*Adopted effective Feb. 1, 1973. Amended June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 15. PUBLIC OFFICE AND POLITICAL ACTIVITY

A. Magisterial district judges shall not hold another office or position of profit in the government of the United States, the Commonwealth or any political subdivision thereof, except in the armed services of the United States or the Commonwealth.

B. Magisterial district judges or candidates for such office shall not:

- (1) hold office in a political party or political organization or publicly endorse candidates for political office.
- (2) engage in partisan political activity, deliver political speeches, make or solicit political contributions (including purchasing tickets for political party dinners or other functions) or attend political or party conventions or gatherings, except as authorized in subdivision C of this rule. Nothing herein shall prevent magisterial district judges or candidates for such office from making political contributions to a campaign of a member of their immediate family.

C. Magisterial district judges or candidates for such office may, in the year they run for office, attend political or party conventions or gatherings, speak to such gatherings or conventions on their own behalf, identify themselves as members of a political party, and contribute to their own campaign, a political party or political organization (including purchasing tickets for political party dinners or other functions).

D. With respect to their campaign conduct, magisterial district judges or candidates for such office shall:

- (1) maintain the dignity appropriate to judicial office, and shall encourage members of their family to adhere to the same standards of political conduct that apply to them.
- (2) prohibit public officials or employees subject to their direction or control from doing for them what they are prohibited from doing under this rule; and except to the extent authorized under subdivision D(4) of this rule shall not allow any other person to do for them what they are prohibited from doing under this rule.
- (3) not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent their identity, qualifications, present position or other fact.

*Commentary:*

*The United States Supreme Court in Republican Party of Minnesota v. White, 122 S.Ct. 2528 (2002) concluded that a canon of judicial conduct prohibiting judicial candidates from "announcing their views on disputed legal or political issues" is violative of the First Amendment of the United States Constitution.*

- (4) not themselves solicit or accept campaign funds, or solicit publicly stated support, but they may establish committees of responsible persons to secure and manage the expenditure of funds for their campaign and to obtain public statements of support for their candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers. Candidates' committees may solicit funds for their campaign no earlier than thirty (30) days prior to the first day for filing nominating petitions, and all fund-raising activities in connection with such campaign shall terminate no later than the last calendar day of the year in which the election is held. Candidates should not use or permit the use of a campaign contribution for the private benefit of themselves or members of their family.

E. Magisterial district judges shall resign their office when they become candidates either in a party primary or in a general election for a non-judicial office.

*Note*

*This rule is derived from former Rule 15 and from Canon 7 of the American Bar Association and Pennsylvania Supreme Court Code of Judicial Conduct. This rule prohibits only political activity that*



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*is partisan in nature and consequently there is no objection to magisterial district judges becoming engaged in political activity of a public service nature, such as, for example, political activity in behalf of measures to improve the law, the legal system or the administration of justice.*

*Adopted effective Feb. 1, 1973.*

*Amended Oct. 17, 1975, effective in 90 days;*

*June 30, 1982, effective 30 days after July 17, 1982;*

*Nov. 9, 1998, effective Jan. 1, 1999;*

*Nov. 21, 2002, immediately effective;*

*Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 16. TRANSFER OF DOCKETS AND OTHER PAPERS

A. Except for judges of the traffic courts of Philadelphia, magisterial district judges shall on the expiration of their term of office, or upon the effective date of their resignation or removal from office or upon their abandonment of their office or its duties, deliver all their dockets and other official or like papers to the magisterial office established for the magisterial district in which the former or inactive magisterial district judges maintained their residence.

B. If magisterial district judges die while in office, their personal representative shall make any delivery required under subdivision A of this rule.

*Adopted effective Feb. 1, 1973.*

*Amended effective Jan. 22, 1974.*

*Amended April 25, 1979, effective in 30 days;*

*June 30, 1982, effective 30 days after July 17, 1982;*

*Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 17. SUPERVISION OF MAGISTERIAL DISTRICT JUDGES BY PRESIDENT JUDGES

A. The president judge of the court of common pleas of a judicial district shall exercise general supervision and administrative control over magisterial district judges within the judicial district.

B. The president judge's administrative authority over magisterial district courts within the judicial district includes but is not limited to, and shall be governed by, the following:

(1) Records—The president judge may designate a person to maintain personnel and other records in such form as directed by the president judge or required by general or local rule.

(2) Meetings with Magisterial District Judges—The president judge may require the attendance of magisterial district judges in the judicial district, individually or collectively, at meetings with the president judge or his or her representative.

(3) Staff in the Magisterial District Courts—

(a) Except where minimum job qualifications for staff in the magisterial district courts are prescribed by the Supreme Court of Pennsylvania, the president judge may prescribe minimum job qualifications for staff in the magisterial district courts in the judicial district.

(b) The president judge may establish a classification system and job descriptions for all authorized staff

in the magisterial district courts in the judicial district. The president judge may establish general procedures regarding the hiring, firing, supervision, and discipline of all authorized staff in the magisterial district courts in the judicial district.

(c) Subject to subparagraphs (a) and (b) above, magisterial district judges:

(i) shall be responsible for the management of authorized staff in their court; and

(ii) shall assign work among authorized staff in their court, and;

(iii) may select one authorized staff member as personal staff.

(d) In the interest of efficient administration of the judicial district, the president judge may:

(i) transfer or reassign a staff member, other than personal staff who may be transferred or reassigned only with the consent of the magisterial district judge, from one magisterial district court in the judicial district to another, and;

(ii) hire and assign, as appropriate, temporary or floater staff.

(e) The president judge may establish a system of performance evaluation for staff in the magisterial district courts in the judicial district.

(f) The president judge may prescribe initial and ongoing training for staff in the magisterial district courts in the judicial district.

(4) Magisterial District Judge Leave; Coverage During Leave—

(a) The president judge may coordinate leave for magisterial district judges in the judicial district to assure access to judicial resources.

(b) Subject to the provisions of subparagraph (a) above, magisterial district judges shall enjoy autonomy with respect to choosing when to take leave, subject to reasonable coordination by the president judge with the schedules of the other magisterial district judges in the judicial district.

(5) Office Hours—In consultation with the magisterial district judges, the president judge may designate the ordinary hours of magisterial district courts in the judicial district in accordance with Rule 103 of the Rules and Standards with Respect to Offices of Magisterial District Judges and the efficient administration of justice.

(6) Temporary Assignments; Transfer of Cases—In consultation with the affected magisterial district judge(s), the president judge may order temporary assignments of magisterial district judges or reassignment of cases or certain classes of cases to other magisterial districts within the judicial district or to central courts within the judicial district.

(7) Conduct of Magisterial District Judges—When a



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complaint is received with respect to the conduct of a magisterial district judge, the president judge may in their discretion, review the matter with the affected magisterial district judge and may take any action that the president judge deems appropriate to assure the efficient administration of justice. Contemporaneous notice of any such action taken by the president judge resulting in reassignment of cases or otherwise affecting the duties of the magisterial district judge shall be given to the Supreme Court of Pennsylvania and the Court Administrator of Pennsylvania.

- (8) **Procedural Audits**—The president judge may direct that procedural audits of a magisterial district court be conducted to assure compliance with general and local rules, administrative policies and procedures, and the Magisterial District Judge Automated Office Clerical Procedures Manual. Such procedural audits shall be separate from the fiscal audits conducted by the county controller or state Auditor General, which shall be limited in scope to the accounts of the magisterial district judge. Such procedural audits may be conducted by the district court administrator, an outside independent auditor, or such other person as the president judge may designate.

## Note

*This Rule is promulgated in order to secure the efficient and effective administration of the magisterial district courts. It recognizes that magisterial district judges are the judicial officials charged with the legal and administrative responsibilities within their respective magisterial districts. Designed to further the unified judicial system in each of the judicial districts, this Rule contemplates a cooperative approach to the administration of the magisterial district courts, acknowledging the independence of the judicial officers and the supervisory role of the president judges.*

*This Rule was amended in 2003 to more specifically outline the authority, powers, and responsibilities of the president judges with regard to management of the magisterial district judge system. In so doing, however, it was not intended that this be an exclusive list of powers and responsibilities, nor was it intended to limit the president judges' authority to the areas listed. Given the diverse needs of judicial districts throughout Pennsylvania, how president judges exercise this authority will recognizably be varied. In general, president judges have broad authority with regard to management of the magisterial district courts, but it seemed advisable that certain areas of authority and responsibility be specifically defined.*

*With regard to paragraph (B)(2), president judges or their representatives are encouraged to meet regularly with the magisterial district judges in the judicial district to foster and maintain open lines of communication regarding the management of the magisterial district judge system.*

*The term "authorized staff" as used in this Rule means staff positions that have been approved, funded, and hired in accordance with all applicable personnel policies and procedures.*

*Subparagraphs (B)(3)(c) and (B)(4)(b) limit the president judges' authority in certain areas that are within the magisterial district judges' discretion. With regard to subparagraph (B)(3)(c), see 42 Pa.C.S. § 102 and 2301(a)(1), and Rule 5C. With regard to subparagraph (B)(4)(b), see Rule 3A.*

*Subparagraph (B)(3)(d)(i) gives president judges authority to transfer or reassign magisterial district court staff as needed, except for personal staff as provided in subparagraph (B)(3)(c), who may be transferred or reassigned only with the consent of the affected magisterial district judge. It is contemplated that president judges would consult with and give sufficient notice to the affected magisterial district judges before making transfers.*

*Nothing in subparagraph (B)(3)(f) is intended to circumvent any training program established or required by the Supreme Court of Pennsylvania or the Court Administrator of Pennsylvania.*

*As to paragraph (B)(6), compare Pa.R.Crim.P. 131(B) relating to central locations for preliminary hearings and summary trials. In addition, if the judicial district is part of a regional administrative unit, magisterial district judges may be assigned to any other judicial district in the unit. See Pa.R.J.A. No. 701(E).*

*Nothing in paragraph (B)(7) is intended to contradict or circumvent the constitutionally established process for the suspension, removal, and discipline of magisterial district judges. See Pa. Const. art. V, § 18; see also 207 Pa. Code Chs. 101—119 (Judicial Conduct Board rules of procedure). President judges do not have authority to suspend or discipline magisterial district judges.*

*All references to constables were stricken from this Rule pursuant to the Pennsylvania Supreme Court's holding in Rosenwald v. Barbieri, 501 Pa. 563, 462 A.2d 644 (1983).*

*Adopted effective Feb. 1, 1973. Amended April 3, 1973, immediately effective; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; June 20, 1985 immediately effective; June 25, 2003, immediately effective; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 18. APPLICABILITY TO JUDGES OF THE TRAFFIC COURT OF PHILADELPHIA

Except for Rule 16, the above rules governing standards of conduct for magisterial district judges also apply to, and "magisterial district judge" as used therein additionally includes, the judges of the Philadelphia Traffic Court.

*Adopted effective Feb. 1, 1973. Amended effective Jan. 22, 1974, immediately effective; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 19. CERTIFICATION REQUIREMENTS OF INTERESTED PERSONS

Magisterial district judges, bail commissioners and judges who are not members of the bar of this Commonwealth shall complete a course of training and instruction in the duties of their respective offices and pass an examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office. In addition to those required to complete the course of training and instruction, any interested person may apply to the Administrative Office to be enrolled in the course of instruction and take the examination.

Any persons successfully completing the course of training and instruction and examination, who have not served as a magisterial district judge, bail commissioner or judge



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within two years, will be required to update their certification by taking a review course as defined by the Minor Judiciary Education Board and passing an examination, prior to being certified by the Administrative Office of Pennsylvania Courts as qualified to perform their duties as required by the Constitution of Pennsylvania. Individuals who have completed the continuing education course every year since being certified are exempt from this provision.

*Adopted effective Nov. 14, 1990. Amended Jan. 6, 2005, effective Jan. 29, 2005; Nov. 21, 2005.*

## RULE 20. CONTINUING EDUCATION REQUIREMENT

Every magisterial district judge shall complete a continuing education program each year equivalent to not less than 32 hours per year in such courses or programs as are approved by the Minor Judiciary Education Board. If a magisterial district judge fails to meet these continuing education requirements, the judge shall be subject to suspension by the Supreme Court until such time as evidence of compliance with such requirements is submitted by the board, but in no event longer than six months at which time the failure to meet the continuing education requirements shall be grounds for the Supreme Court, after a hearing, to declare a vacancy in that district.

The Minor Judiciary Education Board shall conduct at least one continuing education practicum course, consisting of not less than 32 hours, which each Magisterial District Judge or Senior Magisterial District Judge, whether law-trained or non law-trained, within 12 months of first assuming office, shall be required to attend. The Board shall approve the length of the program, and the course of instruction. Practicum exercises will be a part of the course of instruction. Senior magisterial district judges may petition the Board for a waiver of this requirement.

*Adopted effective Nov. 14, 1990; amended Jan. 6, 2005, effective Jan. 29, 2005; Nov. 21, 2005.*

## RULE 21. ADMISSION OF SENIOR MAGISTERIAL DISTRICT JUDGES AND THOSE PERSONS WHO HAVE SUCCESSFULLY COMPLETED THE COURSE OF TRAINING AND INSTRUCTION AND EXAMINATION AND WHO HAVE NOT SERVED AS A MAGISTERIAL DISTRICT JUDGE, BAIL COMMISSIONER OR JUDGE

Any magisterial district judge who has left that Judicial Office for any good reason and who has been certified by the Administrative Office of Pennsylvania Courts as eligible to serve as Senior Magisterial District Judge shall be

admitted to the continuing education program sponsored by the Minor Judiciary Education board every year as required by 42 Pa.C.S.A., Section 3118. Any person successfully completing the course of training and instruction and examination and who has not served as a magisterial district judge, bail commissioner or judge may apply to the Administrative Office of Pennsylvania Courts to be enrolled in the continuing education course based on the availability of space. Such enrollment will be at the expense of the party.

In the event that the Court Administrator of Pennsylvania notifies the Minor Judiciary Education Board that a Senior Magisterial District Judge has not accepted an assignment for a continuous period of two (2) years, the Minor Judiciary Education Board may refuse enrollment in the continuing education course.

*Adopted effective Nov. 14, 1990.  
Amended effective Apr. 12, 1995, immediately effective;  
Jan. 6, 2005, effective Jan. 29, 2005; amended Nov. 21, 2005.*

## RULE 22. CONTINUING EDUCATION REQUIREMENT: PHILADELPHIA TRAFFIC COURT

Every Philadelphia Traffic Court judge shall complete a continuing education program each year equivalent to not less than twenty (20) hours per year in such courses or programs as are approved by the Minor Judiciary Education Board. If a Philadelphia Traffic Court judge fails to meet these continuing education requirements the judge shall be subject to suspension until such time as evidence of compliance with such requirements is submitted by the Minor Judiciary Education Board, but in no event for longer than six months at which time the failure to meet the continuing education requirements shall be grounds for removal and the declaration of a vacancy in the Philadelphia Traffic Court.

*Adopted effective Sept. 4, 1991; amended Nov. 21, 2005.*

## RULE 81. ACTS OF ASSEMBLY SUSPENDED

All acts of Assembly or parts thereof inconsistent with the Rules Governing Standards of Conduct of Magisterial District Judges are suspended to the extent of such inconsistency.

*Adopted June 1, 1971.  
Amended April 25, 1979, effective in 30 days;  
June 30, 1982, effective 30 days after July 17, 1982;  
Jan. 6, 2005, effective Jan. 29, 2005.*



# CONFIDENTIAL REQUEST FOR INVESTIGATION

# 35

<p style="text-align: center;"><b>COMMONWEALTH OF PENNSYLVANIA</b></p> <p style="text-align: center;"><b>JUDICIAL CONDUCT BOARD</b>                  Pennsylvania Place                  301 Chestnut Street, Suite 403                  Harrisburg, PA 17101</p> <p style="text-align: center;">(717)-234-7911</p>		<p style="text-align: center;"><b>OFFICIAL USE ONLY</b></p> <p>Rec'd: _____</p> <p>JCB No: _____</p> <p>County: _____</p>
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## CONFIDENTIAL REQUEST FOR INVESTIGATION

**INSTRUCTIONS:** Please type or print. If you wish to provide documents to support your allegations, please attach copies of those documents. We cannot return documents. The Board's jurisdiction extends only to Pennsylvania Supreme Court Justices, Superior and Commonwealth Court Judges, Common Pleas Court Judges, Philadelphia Municipal and Traffic Court Judges and Magisterial District Judges. Once completed, you must sign and return this form to the address above.

**NOTICE:** The Judicial Conduct Board has no authority to change a Judge's decisions or rulings. Our jurisdiction extends only to conduct that violates the Code of Judicial Conduct or the Rules Governing Standards of Conduct of District Justices, which may be found at our website at [www.lcbpa.org](http://www.lcbpa.org).

**Your Information:**

<b>Name:</b>			
<b>Address:</b>		<b>Telephone:</b>	
( )		( )	
<b>City:</b>	<b>State:</b>	<b>Zip:</b>	( )

**Judicial Officer's Information:**

<b>Name:</b>	<b>Type of Judicial Officer:</b>
<b>County:</b>	<input type="checkbox"/> Magisterial District Judge <input type="checkbox"/> Judge

**Case Information:** (If misconduct allegations relate to Court Proceedings.)  **Case Has Been Appealed**

<b>Case Name:</b>	<b>Case Docket Number:</b>
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<b>Your Attorney:</b>	<b>Opposing Attorney:</b>	<b>Witness:</b>
<b>Name:</b>	<b>Name:</b>	<b>Name:</b>
<b>Address:</b>	<b>Address:</b>	<b>Address:</b>
<b>Phone:</b>	<b>Phone:</b>	<b>Phone:</b>

I certify that I have read the information concerning the Judicial Conduct Board's function, jurisdiction, and procedures included in the accompanying brochure. I further swear (or affirm) that the above information is true and accurate. The statements in this complaint are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities.)

\_\_\_\_\_ Date

\_\_\_\_\_ Your Signature

Please explain your complaint on the reverse of this form.



# CONFIDENTIAL REQUEST FOR INVESTIGATION

**Please use this page to explain your complaint, providing as much detail as possible.  
Attach additional pages if needed.**

Please note, it is not required that you present your grievance to the Board in person. Personal interviews are not required and are not usually necessary for our preliminary review, investigation, and understanding of grievances. If we need further information relative to your grievances, you will be contacted by phone or letter and arrangements will be made for an interview if deemed necessary.

Revised: 08/10/2004