

NOTICE TO THE BAR

PROPOSED AMENDMENTS TO RULE 1:20 REGARDING DISCIPLINE OF MEMBERS OF THE BAR

PUBLICATION FOR COMMENT

The Supreme Court, by this notice, is requesting written comments on three proposed amendments to certain provisions of Rule 1:20 ("Discipline of Members of the Bar").

The first proposed amendment is to Rule 1:20-6 ("Hearings") and relates to the reimbursement of special masters appointed by the Supreme Court to preside over the most complex disciplinary matters. The proposal would amend R. 1:20-6(b)(2) so as to provide for the payment of special masters for opinion preparation work. Under the current language of the rule, special masters can be paid only for prehearing conferences and hearings. The proposed amendment would cap the amount payable for opinion preparation in a particular matter at the amount paid for prehearing conferences and hearings in the same matter.

The second and third proposed amendments are to provisions of Rule 1:20-9 ("Confidentiality; Access to and Dissemination of Disciplinary Information"). An amendment is proposed to R. 1:20-9(d)(5) so as to clarify that District Ethics Committee Manuals and District Fee Arbitration Manuals are public documents that are available from the Judiciary as any other public document. And an amendment is proposed to R. 1:20-9(f) so as to permit the Supreme Court to authorize the Office of Attorney Ethics to release information to law enforcement agencies in certain defined situations without notice to the respondent attorney.

The proposed amendments accompany this notice. Please send any comments on the proposals in writing by January 23, 2017 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments – Rule 1:20
Hughes Justice Complex; PO Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted by e-mail to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address, and those submitting comments by e-mail should include their name and e-mail address. Comments are subject to public disclosure upon receipt.

Handwritten signature of Glenn A. Grant in blue ink, with the initials "GAG" visible at the end.

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: December 21, 2016

Rule 1:20-6. Hearings

(a) ... no change

(b) Special Ethics Masters.

(1) ... no change

(2) Appointment; Compensation. Special ethics masters shall be appointed by, and shall serve at the pleasure of, the Supreme Court under the administration of the Director. Attorneys shall be paid the per diem rate in effect for single arbitrators under R. 4:21A-2(d)(1). The full per diem rate shall be paid for each day of a prehearing conference or hearing, or part thereof, [but shall not be paid for separate days] and for each day or part thereof for opinion preparation. The number of days or part thereof that are paid for opinion preparation in a particular matter may not exceed the total number of days that are paid in that matter for prehearing conference and hearing. A reasonable additional amount may be paid for actual typing expenses. Retired judges may serve pro bono or with compensation or, if they are on recall, shall be paid at the rate in effect for judges on recall service.

(3) ...no change

(4) ...no change

(c) ... no change

(d) ... no change

(e) ... no change

1:20-9. Confidentiality; Access to and Dissemination of Disciplinary Information

(a) ... no change

(b) ... no change

(c) ... no change

(d) Public Records.

(1) ... no change

(2) ... no change

(3) ... no change

(4) Ethics Committees, Office of Attorney Ethics or the Board may [impose a reasonable] charge for copies of records in accordance with R. 1:38-9 [the actual cost of reproducing public documents].

(5) [The following records are also public for purpose of inspection:] The District Ethics Committee Manual and the District Fee Arbitration Manual also are public documents, copies of which shall be available from [These manuals may be inspected at] the Office of Attorney Ethics, the Disciplinary Review Board and the secretaries of the respective Ethics Committees and Fee Committees.

(e) . . . no change

(f) Disclosure of Evidence of Criminal Conduct; All Other Disclosure Including Subpoenas.

(1) . . . no change

(2) Upon the request of a law enforcement agency seeking information in the possession of the Office of Attorney Ethics to assist the law enforcement agency with an ongoing criminal investigation, the Director shall not release such information without the prior authorization of the Supreme Court. If requested by the law enforcement agency, the Supreme Court may, in its discretion, authorize the release of the information without notice to respondent or any other person.

(3) [(2)] In all other cases, including cases where civil or criminal subpoenas have been issued to disciplinary personnel, the Board may authorize the referral of any confidential documentary information to the appropriate authority only for good cause shown. When a requesting authority shall seek such information, it shall issue its subpoena, which shall be transmitted to the Board or shall file a motion seeking disclosure with the Board, on ten days' notice to the respondent and any known counsel, and the Director, both of whom shall be given an opportunity to be heard.

(g) through (p) . . . no change