

## NOTICE TO THE BAR

### **MUNICIPAL COURT ADMINISTRATOR CERTIFICATION PROGRAM –** **AMENDMENTS TO COURT RULES AND CERTIFICATION BOARD** **REGULATIONS REGARDING CREDENTIALING,** **CONTINUING EDUCATION, AND DISCIPLINE**

The Supreme Court has adopted a number of rule and regulation amendments related to the Municipal Court Administrator Certification Program to clarify and improve the processes for the credentialing, continuing education, and discipline of municipal court directors, municipal court administrators, and deputy municipal court administrators. The amendments are to Court Rules 1:41-1, 1:41-2, and 1:41-3 (November 17, 2021 order attached) and to Municipal Court Administrator Certification Board Regulations 3, 5, 6, 8, 10, and 12 (separate November 17, 2021 order also attached).

These rule and regulation amendments will become effective January 1, 2022.

Questions may be directed to Assistant Director for Municipal Court Services Steven A. Somogyi at (609) 815-2900 x54850 or [Steven.Somogyi@njcourts.gov](mailto:Steven.Somogyi@njcourts.gov).

A handwritten signature in black ink, appearing to read "Glenn A. Grant", is written over a horizontal line.

Hon. Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Dated: November 17, 2021

## **SUPREME COURT OF NEW JERSEY**

It is ORDERED that the attached amendments to Rules 1:41-1, 1:41-2 and 1:41-3 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective January 1, 2022.

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosen", is written over the printed name of the Chief Justice.

Chief Justice

Dated: November 17, 2021

1:41-1. Municipal Court Administrator Certification Board

(a) Appointment. ... no change

(b) Ex Officio Members. ... no change

(c) Members. ... no change

(d) Chair and Vice-Chair. ... no change

(e) Secretary and Staff. ... no change

(f) Disciplinary Counsel. The Administrative Director of the Courts shall designate a staff person from the Administrative Office of the Courts to serve as Disciplinary Counsel, who shall be responsible for the prosecution of disciplinary matters handled by the Board.

(g) [(f)] Regulations. Subject to the prior approval of the Supreme Court, the Board shall promulgate regulations to implement these Rules.

(h) [(g)] Fees and Fund. Any fees authorized by these Rules or by regulation shall be payable to the Board. Any such fees shall be deposited into a dedicated fund to support the operation of the Program.

Note: Adopted June 15, 2007 to be effective September 1, 2007; paragraphs (a) and (b) amended September 13, 2011 to be effective immediately; new paragraph (f) adopted; former paragraphs (f) and (g) redesignated as paragraphs (g) and (h) November 18, 2021 to be effective January 1, 2022.

## 1:41-2. Certification and Renewal; Lapsing of Certification

(a) Certification; Continuing Education Requirement; Certification Renewal. A certification candidate who has been examined and found qualified for certification by the Board shall be recommended to the Supreme Court for designation as a Certified Municipal Court Administrator, abbreviated as “C.M.C.A.” A Certified Municipal Court Administrator may use the title during good behavior in accordance with law and the Rules of Court. A Certified Municipal Court Administrator must satisfy continuing education requirements as established by the Supreme Court and the Board. Pursuant to regulations of the Board, a Certified Municipal Court Administrator must [apply for recertification every three years] comply with certification renewal requirements every two years.

(b) [Lapsing of Certification] Failure to Satisfy Certification Renewal Requirements. A Certified Municipal Court Administrator who [allows his or her certification to lapse] fails to comply with certification renewal requirements by not paying the required fees or satisfying the continuing education requirements shall be carried on the Board’s records as not in good standing and may not, during that period, use the title “Certified Municipal Court Administrator” or its abbreviation “C.M.C.A.”

Note: Adopted June 15, 2007 to be effective September 1, 2007; paragraph (a) amended and paragraph (b) caption and text amended November 17, 2021 to be effective January 1, 2022.



1:41-3. Accreditation of Non-Certified Municipal Court Directors, Municipal Court Administrators, and Deputy Municipal Court Administrators

(a) Accreditation; Conditional Accreditation. ... no change

(b) Completion of Education Requirements as Precondition to Conditional Accreditation and Accreditation. ... no change

[(c) Time Requirements for Obtaining Conditional Accreditation and Accreditation for Current Employees. All current non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain conditional accreditation by March 13, 2012, six months after the effective date of this rule. All non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain full accreditation by September 13, 2014, three years after the effective date of this rule.]

(c) [(d)] Time Requirements for Obtaining Conditional Accreditation and Accreditation for Newly Appointed Employees. All newly appointed non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain conditional accreditation within six months of the date of appointment. All newly appointed non-certified municipal court directors, municipal court administrators, and deputy municipal court administrators shall obtain full accreditation within three years of the date of appointment.

(d) [(e)] Consequences of Failure to Meet Time Requirements for Obtaining [Certification,] Conditional Accreditation [,] or Accreditation. A non-certified municipal court director, municipal court administrator, or deputy municipal court administrator[,], who fails to obtain [certification,] conditional accreditation[,], or accreditation[,], within the time frames provided by this rule and the Board's regulations, will be ineligible to remain in that title. The Board may grant an extension of time upon a showing of good cause.

(e) [(f)] Performance of Quasi-Judicial Duties. Only certified, conditionally accredited, or accredited municipal court administrators or deputy municipal court administrators may perform quasi-judicial duties in a court, if so authorized by the municipal court judge.

(f) [(g)] Performance of Managerial Duties - Generally. Only certified, conditionally accredited, or accredited municipal court directors, municipal court administrators, and deputy municipal court administrators may perform managerial duties in a court, except as provided in R. 1:41-3(g) [1:41-3(h)].

(g) [(h)] Performance of Managerial Duties by New Appointees. Newly appointed municipal court directors, municipal court administrators, and deputy municipal court administrators may perform managerial duties in a court without being certified, conditionally accredited or accredited, provided that they satisfy the conditional accreditation or accreditation education requirements within the time frames set forth under R. 1:41-3(c) [and (d)].

Note: New R. 1:41-3 adopted (and former R. 1:41-3 redesignated as R. 1:41-4) September 13, 2011 to be effective immediately; paragraph (c) deleted, paragraph (d) redesignated as paragraph (c), paragraph (e) redesignated as paragraph (d) and amended, paragraph (f) designated as paragraph (e), paragraph (g) redesignated as paragraph (f) and amended, paragraph (h) redesignated as paragraph (g) and amended November 17, 2021 to be effective January 1, 2022.

## SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Municipal Court Administrator Certification Board Regulations 3, 5, 6, 8, 10, and 12 are adopted to be effective January 1, 2022.

For the Court,



Chief Justice

Dated: November 17, 2021

## Regulation 3. Records.

3:1 Recordkeeping. ... no change

3:2 Public Access. The reports of the Board to the Supreme Court and lists identifying the names of certified, conditionally accredited, and accredited municipal court employees, the names of certified, conditionally accredited, and accredited municipal court employee s[,], who have been revoked or suspended, and the standing and status of certified and noncertified municipal court administrators shall be deemed public records and shall be available for public inspection and copying, as provided by Court Rule 1:38-1 to -13.

### 3:3 Confidentiality.

[1.] (a) Board Records. All records of the Board, except those listed in M.C.A.C.B.Reg. 3:2 and subsection (b) below, shall remain confidential under R. 1:41-7, until and unless the Supreme Court orders otherwise, or:

[(b)] (a)(i) Upon the request of the municipal court director, municipal court administrator, deputy municipal court administrator, or candidate, in which event[,], he or she shall only have access to materials he or she submitted to the Board; or

[(b)] (a)(ii) Upon the request of a third party, with the written consent of the municipal court director, municipal court administrator, deputy municipal court administrator, or candidate, in which event the person or entity obtaining the consent will only have access to the materials submitted to the Board by that municipal court director, municipal court administrator, deputy municipal court administrator, or candidate.



(b) Discipline records. If the Board files a formal complaint against the respondent, the complaint and all further proceedings thereon shall be available to the public except that the Board may for good cause retain confidentiality in a matter involving special circumstances, such as when the Board determines that the privacy interests of a witness or other person connected with the matter outweigh the public interest in the matter.

## Regulation 5. Certification Process.

5:1 The certification process consists of the following phases and shall be completed in the order set forth below:

1. Phase I - Educational Requirements. A certification candidate must successfully complete the Principles of Municipal Court Administration curricula.

### 2. Phase II - Written and Oral Examinations:

(a) Written Examination. Upon the completion of the Phase I curricula, the certification candidate must pass a written certification examination with no less than 80% of the questions answered correctly.

(b) Oral Examination. If the certification candidate successfully completes the written examination, then the certification candidate must take an oral examination before a three-member panel of examiners. The certification candidate will be afforded a limited opportunity for closed-book preparation of responses, including the development of a written outline or other notes, if desired. The certification candidate's oral response to each question will be graded on a pass/fail basis and the certification candidate's written outline or other notes will be collected, but not graded, at the conclusion of the oral examination. The oral examination panel will be comprised of two certified municipal

court administrators, in good standing, and a municipal division manager or other qualified person designated by the Board Secretary. In the event of the unavailability of a panel member, the Board Secretary may designate additional panel members, as necessary.

(c) Examination Fees. Prior to the administration of the Phase II certification examination, the certification candidate shall pay the examination fee(s) specified in M.C.A.C.B.Reg. 13. If the certification candidate fails any written or oral examination, he or she may retake the examination, subject to a reexamination fee, as specified in M.C.A.C.B.Reg. 13, for each subsequent examination that is administered.

### 3. Phase III -- Court Improvement Project.

(a) General. After successfully completing Phases I and II, the certification candidate is to develop and submit a court improvement project, the subject of which has been pre-approved by the Board. The project should demonstrate the candidate's knowledge derived from experience, the Principles of Municipal Court Administration curricula, and any other formal training; problem-solving ability; and writing skills, including appropriate spelling and use of grammar. The subject of the project must contribute to improving the administration of justice and further the municipal court's interests as a part of the local community. The project shall be in writing, setting forth findings, conclusions, recommendations and/or implementation plans for municipal court improvement.

(b) Mentor Groups [, Board Subcommittees]. The Board may establish statewide, regional or other mentor committees. With the approval of the Board, a municipal division in a vicinage may establish a vicinage mentor committee. Certification candidates entering Phase III will have the opportunity, if desired, to contact a mentor committee as a support group for assistance relating to development of project ideas or

topics. Certification candidates in Phase III are not required to seek the assistance of a mentor committee. They will, however, be advised of the opportunity to do so.

Certification candidates will continue to have the option of submitting project requests directly to the Board's attention. [The Board may also refer any project requests and final projects to a standing subcommittee(s) of the Board established by the Chair for the purpose of project review and recommendation to the Board.]

(c) Phase III Court Improvement Guidelines. Each project shall conform to the “Phase III Court Improvement Guidelines” approved by the Board and available on the Board’s website or from the Board Secretary.

(d) Time [Period] Periods.

i. Approval of Court Improvement Project Proposal. After successful completion of the oral examination, the certification candidate has one year to obtain approval of a court improvement project proposal. Requests for an extension of this time period must be submitted to the Board and may be granted for good cause shown.

ii. Approval of Court Improvement Project. Upon approval of a court improvement project proposal, the [C]certification candidate[s] must [submit to the Board the completed] successfully complete Phase III [court improvement project] within [18 months] two years of the Board’s approval of the project [request] proposal. Phase III is completed when the candidate’s court improvement project has been approved by the Board. Requests for an extension of this time period must be submitted to the Board and may be granted for good cause shown.

iii. Current Certification Candidates. A certification candidate who has completed Phase II as of the effective date of this regulation must obtain approval of a court improvement project proposal within one year of that effective date.



(e) Consequences of Failure to Meet Time Period Requirements. In the event of failure to satisfy the time requirements contained in M.C.A.C.B.Reg. 5:1-3(d), the certification candidate will be required to retake and pass the Phase II written certification examination with no less than 80% of the questions answered correctly. The certification candidate will be subject to the reexamination fee, as specified in M.C.A.C.B.Reg. 13, for each subsequent examination that is administered. When a certification candidate fails to obtain approval of a court improvement project proposal within the required time period, the written certification examination must be passed prior to the submission of a new court improvement project proposal to the Board.

#### Regulation 6. Accreditation Process.

6:1 Conditional Accreditation Requirements. To obtain conditional accreditation, a non-certified municipal court director, municipal court administrator, or deputy municipal court administrator must successfully complete Levels I and II of the Principles of Municipal Court Administration curricula within six (6) months from the date of appointment to that position.

[(a) Current employees. For a non-certified municipal court director, municipal court administrator, or deputy municipal court administrator currently employed as of the date of promulgation of this regulation, the requirements for conditional accreditation must be completed by March 13, 2012, six months after the effective date of this regulation.

(b) Newly appointed employees. For a non-certified municipal court director, municipal court administrator, or deputy municipal court administrator appointed after the date of promulgation of this regulation, the requirements for conditional

accreditation must be completed within six (6) months from the date of appointment to that position.]

6:2 Full Accreditation Requirements. To obtain full accreditation, a non-certified municipal court director, municipal court administrator, or deputy municipal court administrator must successfully complete Levels I-IV of the Principles of Municipal Court Administration curricula within three (3) years from the date of appointment to that position.

[(a) Current employees. For a non-certified municipal court director, municipal court administrator, or deputy municipal court administrator currently employed as of the date of promulgation of this regulation, the requirement for full accreditation must be completed by September 13, 2014, three years after the effective date of this regulation.

(b) Newly appointed employees. For a non-certified municipal court director, municipal court administrator, or deputy municipal court administrator appointed after the date of promulgation of this regulation, the requirements for full accreditation must be completed within three (3) years from the date of appointment to that position.]

## Regulation 8. Post-Certification Continuing Education and Certification Renewal.

### 8:1 Continuing Education; Compliance Reporting Groups.

1. Certified Municipal Court Administrators. For the purpose of meeting the continuing education credit (CEC) requirements set forth in N.J.S.A. 2B:12-11 and R. 1:41-2, each certified municipal court administrator must complete at least [45] 24 contact hours (as defined below) of Board approved or required continuing education within the [three-year period following the date of initial certification or renewal of certification. This



three-year period is the continuing education cycle.] two-year compliance period as set forth in M.C.A.C.B.Reg. 8:3-1. Those 24 contact hours shall include at least five (5) credits in ethics and/or professional responsibility. At least two (2) of the five (5) hours of credit in ethics and/or professional responsibility shall be in diversity, inclusion, and elimination of bias. Diversity, inclusion, and elimination of bias programs may include, among other topics, implicit and explicit bias, equal access to justice, serving a diverse population, diversity and inclusion initiatives in the justice system, and cultural competency in the administration of justice. The Board may also require any additional training, in its discretion.

2. Pre-approval of Course. For purposes of M.C.A.C.B.Reg. 8:1 and 8:4, unless a course has been pre-approved by the Board, certified and non-certified municipal court administrators shall submit to the Board a written request for approval of a course, seminar, conference, or vicinage training. The written request must include the name of the course, the dates of the course, the name of the provider, the number of contact hours, and a statement of how the course is related to the administrator's job.

3. Criteria for Board Approval. The Board will approve courses based on the provider's reputation, length of time in the training field, faculty credentials, experience and knowledge. Examples of such educational and training providers are accredited colleges, universities, local community or continuing education institutions, local vicinage training units, the AOC, the National Center for State Courts' Institute for Court Management, Mid-Atlantic Association of Court Management, the American Management Association, local, state, and national bar associations, and other state or local professional court associations.

4. Proof of Successful Completion of Course. Certified and non-certified municipal court administrators shall submit proof of any successful completion of approved courses on a form approved by the Board and posted on the Board's website or available from the Board Secretary.

8:2 Contact Hours.

1. General. A continuing education contact hour, pursuant to M.C.A.C.B.Reg. 8:1 and 8:6 [8:4], is defined as the number of hours actually spent in classroom instruction. For example, a program starting at 9:00 a.m. and concluding at 3:30 p.m., with two 15-minute breaks and an hour for lunch, would qualify for 5 contact hours. (that is, the total program time less any lunch or break time).

2. Ethics. "Ethics" courses shall mean those courses or segments of courses devoted to the substance, underlying rationale, and practical application of the Code of Conduct for Judiciary Employees.

3. Professional Responsibility. "Professional responsibility" courses shall mean those courses or segments of courses devoted to the professional expectations and obligations of the certified municipal court administrator to the public, the court and its various members, and other branches of government.

4. [2] Publishing. Publishing an article on a topic related to municipal court administration may be substituted for course attendance, with the prior approval of the Board.

5. [3.] Committee Work. Service on a professional or government committee related to municipal court administration may be substituted for course attendance, with the prior approval of the Board.

6. [4.] Teaching or Lecturing. With the prior approval of the Board, a certified municipal court administrator may receive contact hour credit for teaching or lecturing on a subject related to municipal court administration. In addition to the actual time teaching or lecturing, one (1) contact hour may be awarded for preparation time for each hour and one half (1.5) of course or lecture time. For example, a three (3) hour lecture would result in a CEC credit of five (5) hours.

#### 8:3 [Recertification] Requirements for Renewal of Certification.

[1. Each certified municipal court administrator shall submit to the Board documentation of 15 contact hours of CECs on a yearly basis or documentation of 45 contact hours of CECs prior to the expiration of the continuing education cycle. CEC hours accumulated in excess of the required 45 hours may not be carried over to the next continuing education cycle. If the Board approves the submission, it shall renew the certified municipal court administrator's certification for an additional three-year period from the date of the expiration of the certification period. Pending the Board's action on the recertification application, the certification status of each applicant shall be continued in good standing.]

1. Compliance period. The compliance period shall mean a period of 24 consecutive months commencing on January first of one year and ending December thirty-first of the following year. Certified municipal court administrators will be assigned a compliance period based on birth month.



2. Compliance obligation. Every certified municipal court administrator is subject to the mandatory requirements of M.C.A.C.B.Reg. 8:1 and shall submit to the Board documentation of 24 hours of CECs prior to the expiration of the continuing education cycle. CEC hours accumulated in excess of the required 24 hours may not be carried over to the next continuing education cycle. Every certified municipal court administrator shall also keep and maintain a record of CEC course attendance for a period of three years from the date of attendance, regardless of the person, entity, organization, or association that offered the CEC course.

3. Compliance reporting groups. Each certified municipal court administrator is permanently assigned to one of two compliance groups for CEC reporting purposes, with one group reporting every two years ending in an odd-numbered year, and the other group reporting every two years ending in an even-numbered year. Those certified municipal court administrators whose birth month falls within January through June (Compliance Group 1) must certify their compliance for that compliance period on the Certification Renewal Form (or on such other form provided by the Board) by December 31<sup>st</sup> of odd-numbered years. Those whose birth month falls within July through December (Compliance Group 2) must certify their compliance for that compliance period on the Certification Renewal Form (or on such other form as provided by the Board) by December 31<sup>st</sup> of even-numbered years.

4. Transitional reporting requirements. A compliance report for one-half of the mandatory CEC requirements is due from Compliance Group 2 on the Certification Renewal Form due by December 31, 2022. Commencing with the Certification Renewal Form due in 2023 and continuing thereafter, compliance reports become due as provided in M.C.A.C.B.Reg. 8:3-3.

5. Reporting requirements for newly certified CMCAs. Commencement of the compliance reporting period for newly certified CMCAs is deferred until January 1 of the year immediately following the achievement of certification. Newly certified CMCAs automatically will be assigned to a compliance group based on their respective birth months, as provided in M.C.A.C.B.Reg. 8:3-3. Newly certified CMCAs who achieve certification during the first year of their two-year compliance cycle shall report one-half of the mandatory CEC requirements for their first compliance cycle. Continuing thereafter, compliance reports become due as provided in M.C.A.C.B.Reg. 8:3-3.

6. [2.] Failure to Submit Proof of Contact Hours. A certified municipal court administrator who fails to submit proof of sufficient contact hours by the end of a [three year continuing education cycle] compliance cycle shall be “not in good standing”, as provided by R. 1:41-2(b) and M.C.A.C.B.Reg. 9:2. Such certified municipal court administrator shall remain not in good standing until she or he submits proof that the delinquent continuing education requirements have been satisfied. [Such certified municipal court administrator is required to satisfy both the delinquent recertification requirements and the recertification requirements of the new three-year cycle before the end of the new cycle. In the event that the administrator is unable to meet the requirements of both cycles, the Board may take such further action with regard to the certification of that administrator as it deems appropriate.]

7. Notification of Non-Compliance. A failure to submit proof of sufficient contact hours by the end of a compliance cycle shall be reported to the appropriate Assignment Judge and the Board, who, in their discretion, shall take appropriate action, including discipline.



8:4 Continuing Education for Non-Certified Municipal Court Administrators Who Have Completed the Phase I Training.

1. A non-certified municipal court administrator holding her or his position under N.J.S.A. 2B:12-11(f) and who has successfully completed the Phase I curricula before May 25, 2006[,] must satisfy the continuing education requirements set forth in M.C.A.C.B.Reg. 8:1-1 and 8:3. [must complete at least 45 contact hours of Board approved or required continuing education within three years of May 25, 2006. This three-year period is the continuing education cycle.

2. A non-certified municipal court administrator holding her or his position under N.J.S.A. 2B:12-11(f) and who has completed the training required by the Board after May 25, 2006, must complete at least 45 contact hours of Board approved or required continuing education within the three-year period following successful completion of the Phase I curricula. This three-year period is the continuing education cycle.

3. Each non-certified municipal court administrator, who has completed the Phase I training, shall submit to the Board documentation of 15 contact hours of CECs on a yearly basis or documentation of 45 contact hours of CECs for three years prior to the expiration of the continuing education cycle. CEC hours accumulated in excess of the required 45 hours may not be carried over to the next cycle. If the Board approves the submission, the non-certified municipal court administrator will remain in good standing for an additional three-year period. Pending the Board's review of the continuing education submission, the non-certified municipal court administrator's status shall be continued in good standing.

4. Failure to Submit Proof of Contact Hours. A non-certified municipal court administrator, who has completed the Phase I training and fails to submit proof of

sufficient contact hours by the end of the continuing education cycle, shall be “not in good standing,” as provided by M.C.A.C.B.Reg. 9:3. Such non-certified municipal court administrator shall remain not in good standing until she or he submits proof that the delinquent continuing education requirements have been satisfied. Such non-certified municipal court administrator is required to satisfy both the delinquent continuing education requirements and the continuing education requirements of the new three-year cycle before the end of the new cycle. In the event that the administrator is unable to meet the requirements of both cycles, the Board may take such further action with regard to the administrator as it deems appropriate and as is consistent with N.J.S.A. 2B:12-11(f).]

#### Regulation 10. Certification Status.

10:1 Active Status. A certified municipal court administrator, in good standing, shall be on active status and authorized to hold himself or herself before the public and the courts of this State as being certified and may use the title C.M.C.A., during good behavior, before the public and the courts of this State in accordance with law and the Rules of Court.

10:2 Inactive Status. A certified municipal court administrator may apply to the Board for inactive status. The Board, in its discretion, may place an applicant on inactive status for professional or personal reasons, including retirement, hardship, illness or other good cause. Except when retired, a certified municipal court administrator who is on inactive status shall not hold himself or herself before the public and the courts of this State as being certified, nor use the title C.M.C.A. in any official or unofficial capacity. Inactive-retired [Retired] certified municipal court administrators may continue to use the title C.M.C.A. followed by the phrase “(retired)” or “(ret.)” in an unofficial capacity. Such inactive-retired certified municipal court administrators may not use the C.M.C.A. title in any official capacity so long as they remain on inactive-

retired status. During any period of inactive status, the certified municipal court administrator shall not be required to meet the fee or continuing education requirements established by the Board for those on active status.

10:3 Reinstatement Application. An inactive certified municipal court administrator may apply to the Board to be reinstated to active status. The Board will consider reinstatement on a case-by-case basis, depending on the administrator's length of time on inactive status.

## Regulation 12. Revocation and Suspension.

12:1 [Complaint] Grievance Procedures. The Board shall review any written statement, criticism, grievance or application (referred hereinafter as a ["complaint"] "grievance") that is directed to the Board and that contains allegations to the effect that a municipal court employee who is certified, conditionally accredited, or accredited has engaged in misconduct as defined in R. 1:41-4(a). The [complaint] grievance shall include any supporting facts or documentation. In the absence of a written [complaint] grievance, the Board on its own initiative may review any information concerning conduct by an employee who is certified, conditionally accredited, or accredited that would be grounds for revocation or suspension of certification, conditional accreditation, or accreditation or other action by the Board.

12:2 Temporary Immediate Suspension. Pending action by the Board pursuant to Rule 1:41-4(a) and Regulation 12, the Assignment Judge of the Vicinage pursuant to Rule 1:41-4(b) may immediately temporarily suspend certification, conditional accreditation, or accreditation where the employee has been charged with or there are credible



allegations that he or she has committed a serious offense or has engaged in serious misconduct.

12.3 Receipt of [Complaint] Grievance. Upon receipt of a [complaint] grievance, the Secretary shall make written acknowledgment thereof to the person who submitted it.

12.4 [Declining Complaint] Initial Review of Grievance. The Board shall review any written statement, criticism, or grievance that is directed to the Board. If the Board determines that there is not [in]sufficient cause to warrant an investigation, it shall close the matter. If a matter has been closed, the Board shall so notify the person who submitted the [complaint] grievance. There shall be no appeal from a decision to close a matter. A closed matter may be reopened by the Board at any time.

12:5 [12:6] Investigation. If the Board determines that it requires additional information, it shall conduct an investigation. The Chair of the Board may assign the Secretary or other person to conduct such investigation as may be necessary to determine whether conduct warranting action, including revocation or suspension of certification, conditional accreditation, or accreditation has occurred.

If, in the course of the investigation, the investigator determines that there are insufficient grounds to warrant action, including revocation or suspension of certification, conditional accreditation, or accreditation, by the Board, the investigator shall submit a written report to the Board recommending the closing [dismissal] of the [complaint] grievance or other appropriate action by the Board. In the event the investigator finds sufficient grounds to warrant action, including revocation or suspension of certification, conditional accreditation, or accreditation, the investigator shall so notify the Board in writing.

12:6 [12:9] Investigation Procedures. If the Board concludes that the investigation reveals sufficient grounds to warrant action, including revocation or suspension of certification, conditional accreditation, or accreditation, the Board shall so notify the respondent in writing of the substance of the matter and shall afford respondent an opportunity to reply in writing within 30 days of the Board's notification. The respondent's reply shall be communicated to the person(s) or entity(s) who submitted the [complaint] grievance, who shall be afforded the opportunity to reply in writing within 14 days. If the Board concludes, after the investigation, that there are insufficient grounds to warrant action, including revocation or suspension of certification, conditional accreditation, or accreditation, the Board shall close the matter. If a matter is closed, the Board shall notify the person who submitted the [complaint] grievance. There shall be no appeal from a decision to close a matter. A closed matter may be reopened by the Board at any time.

12:7 [Preliminary Notification.] Disclosure of Investigation. In the course of its investigation, the Board, in its discretion, may inform the respondent of the allegations and of the identity of the person or entity who is the source of the allegations and may request the respondent to submit a written response to the allegations or to be interviewed or deposed by the Board or by such person(s) as the Board may designate.

12:8 Subpoena Procedures. If the Board wishes to subpoena witnesses or documents under R. 1:41-4(c), application shall be made to the Assignment Judge of the involved vicinage.

12:9 Action on Completion of Investigation. On completion of its investigation, the Board may:



(a) if it finds that the allegations are without merit, the Board shall close the matter and so inform the person who brought the allegations before the Board, as well as the respondent if the Board so desires; or

(b) initiate formal proceedings by the filing of a complaint, pursuant to M.C.A.C.B.Reg. 12:11; or

(c) if it finds conduct by the respondent that does not constitute conduct for which there is probable cause that discipline should be imposed but that is conduct of the type set forth in Rule 1:41-4 or other conduct that would reflect unfavorably on the credential if it were to become habitual or more substantial in character,

(1) communicate to the respondent its guidance concerning the conduct in question and so notify the person who brought the allegations before the Board, with a copy of the communication being sent to, if applicable, the respondent's Assignment Judge; Presiding Judge; Municipal Court Judge; and Division Manager;

(2) invite the respondent to appear for an informal conference pursuant to M.C.A.C.B.Reg. 12:10.

12:10 [12:5] Informal Disposition. The Board shall, whenever possible, attempt to arrive at an amicable disposition of any matter. At any time during the pendency of a matter, the Board, Board Secretary or other designee of the Board, may conduct an informal conference with the respondent (the employee under investigation who is certified, conditionally accredited, or accredited), which may result in a written settlement agreement without the necessity of a hearing. At the Board's discretion, a verbatim or

summary record of the conference may be made. No oath need be administered. A respondent may be represented by counsel at the conference.

#### 12:11 Institution of Formal Proceedings Before the Board.

(a) Whenever the Board concludes from its preliminary investigation that probable cause exists for the imposition of public discipline, the Board shall issue a formal complaint and shall serve it on the municipal court employee who is certified, conditionally accredited, or accredited.

(b) The formal complaint shall issue over the signature of the Secretary to the Board, the Disciplinary Counsel or such other person as may be designated by the Chair and shall give notice to the respondent of the specific nature of the charges and of such facts as are then known to the Board on which the charges are based. The complaint shall set forth sufficient facts to constitute fair notice of the nature of the alleged misconduct, specifying the rules that were violated.

(c) Within 20 days of service of the formal complaint on the respondent, the respondent shall file a letter response to the Board advising that they do not intend to contest the charges OR an original and one copy of a written, verified answer to the charges, designated as such in the caption, with the Board at its principal office. For good cause, the Board may extend the time within which the respondent may file an answer. The answer shall set forth (1) a candid and complete disclosure of all facts reasonable within the scope of the formal complaint; (2) all affirmative defenses, including any claim of mental or physical disability and whether it is alleged to be causally related to the offenses charged; and (3) any mitigating circumstances.

(d) Service on the respondent of any pleading shall be made by personal service, or by certified mail (return receipt requested) and regular mail, or by overnight mail or electronic transmission with confirmation of successful delivery to their home address. Service on a respondent may also be made by serving the respondent's attorney, if any, by certified mail (return receipt requested) or by facsimile or overnight mail or electronic transmission with confirmation of successful delivery.

(e) After receiving the respondent's answer or after the expiration of the time within which an answer is due, the Board shall schedule a formal hearing and shall immediately notify the respondent of the time and place at which the hearing will be held.

#### 12:12 Discovery.

(a) Subsequent to the filing of a letter response or an answer by the respondent, the Board shall make available to the respondent all of the factual information in the Board's file that is related to the complaint.

(b) The Board may request and shall thereupon receive reciprocal discovery from the respondent.

12:13 [12:10] Hearing. The Chair may appoint a panel comprised of three (3) members of the Board to conduct a hearing. The ex officio member of the Board who is a member of the Conference of Assignment Judges or his/her designee shall be a member of any hearing panel. In the absence of the appointment of a hearing panel, the hearing shall be held before the Board. When hearings are held before a panel, that panel shall submit to the Board a written report stating its findings of fact and conclusions of law together with any recommendations for sanctions. As provided in R. 1:41-4(e), the Rules of Evidence



shall not apply in these hearings. If the respondent refuses to testify and/or appear at the hearing, the Board may draw any reasonable inference, under the circumstances of the matter, from such refusal to testify and/or appear. A respondent's unexcused absence, non-responsiveness or other failure to reply or to file any document or to attend any required conference or hearing shall not delay the orderly processing of a case, provided the respondent has been properly served pursuant to M.C.A.C.B.Reg. 12:11(d).

12:14 [12:11] Presenter. The [Secretary] Disciplinary Counsel, or such other person as may be designated by the Chair, shall present to the hearing panel or the Board the evidence supporting the charges concerning the respondent.

12:15 [12:12] Respondent's Counsel; Defense to Charges. A respondent may be represented by counsel before the hearing panel or the Board or may appear pro se. The respondent and/or the respondent's attorney shall present any evidence in defense or explanation of the charges.

12:16 [12:13] Sound Recording. All hearings shall be recorded by sound recording equipment approved by the Administrative Office of the Courts.

12:17 Decision of the Board.

(a) If the Board determines after a formal hearing that the charges against the respondent have been proved by clear and convincing evidence and that the respondent should be subject to discipline, including, but not limited to, revocation or suspension of certification, conditional accreditation, or accreditation, it shall issue a written Final Decision which shall include its finding and the sanction(s), if any, to be imposed.



(b) If the Board determines after a formal hearing that the charges against the respondent have not been proved by clear and convincing evidence or that the conduct does not warrant discipline it shall close the complaint.

(c) When the Board issues its decision, the Secretary shall forthwith serve on the respondent and the grievant notice of its action and copies of its decision.

12:18 [12:14] Reinstatement. If a[n] [employee]respondent's certification, conditional accreditation, or accreditation is suspended for a specified period of time, at the end of that period he or she may apply to the Board for reinstatement. Upon such application, the Board may reinstate the certification, conditional accreditation, or accreditation, unless the [employee]respondent has engaged in further misconduct or there is other good cause to deny reinstatement.