

## NOTICE TO THE BENCH AND BAR

### **JUDICIAL PERFORMANCE PROGRAM CONTINUES; JUDICIAL PERFORMANCE COMMITTEE BROUGHT TO CLOSURE**

The Supreme Court has determined to bring the Judicial Performance Committee to closure since the Judicial Performance Program has been institutionalized. The attached rule amendments, adopted by the Court on October 23, 2012 to be effective immediately, effectuate the Court's determination in that regard, eliminating the Committee while retaining the Program (and also retaining the Judicial Evaluation Commission, which as part of the Judicial Performance Program uses retired judges to mentor judges as they participate in the Program).

/s/ Glenn A. Grant

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

Dated: November 9, 2012

## **SUPREME COURT OF NEW JERSEY**

With the institutionalization of the Supreme Court's Judicial Performance Program and the conclusion of the work of the Judicial Performance Committee, it is ORDERED that the attached amendments to Rules 1:35A-1 through 1:35A-4 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective immediately.

For the Court,

/s/ Stuart Rabner

Chief Justice

Dated: October 23, 2012

1:35A-1. [Judicial Performance Committee] (deleted)

[The Supreme Court shall appoint a Judicial Performance Committee to develop and administer, under the Court's direction and supervision, a program for the continuing improvement of judicial performance. The Supreme Court shall appoint the Committee and designate one member to serve as Chairperson. No less than six members shall be judges from the Superior Court, with representation from the Appellate Division, Civil Division, Criminal Division, Family Division, General Equity Division, and Assignment Judges. No less than three members shall be members of the Bar, no less than two members shall be representatives of the general public, and such number of other members as determined by the Supreme Court. The members shall be appointed by the Supreme Court for terms of three years and may be reappointed for such additional term or terms as the Supreme Court shall determine. The Committee shall report periodically to the Supreme Court concerning the Judicial Performance Program.]

Note: Rule 1:35A-1 (Judicial Performance Committee) adopted [Adopted] June 2, 1988 to be effective immediately; amended March 28, 1994 to be effective September 1, 1994; deleted October 23, 2012 to be effective immediately.

#### 1:35A-2. Judicial Performance Program

The Supreme Court shall establish a program for the continuing improvement of judicial performance to be known as the Judicial Performance Program. The Judicial Performance Program shall be administered so that there is no interference with the performance of the regular duties of judges and no infringement on judicial independence and integrity or on the prerogatives of an individual judge in deciding cases and discharging judicial responsibilities. The primary objective of the Judicial Performance Program shall be the improvement of the judicial system through the improvement of the performance of judges on an individual and institutional basis. The Judicial Performance Program shall include the regular evaluation of the performance of judges and educational programs to enable judges to improve their performance. Evaluation information that is obtained under the program shall be considered personnel records of individual judges and shall be used solely to further the objectives of the program and judicial management. In the evaluation of judicial performance under the program, the Program [Committee] shall use professionally accepted methods to provide to the extent possible objective and reliable evaluations and to reduce the risk of unfair ratings and statistical comparisons.

Note: Adopted June 2, 1988 to be effective immediately; amended October 23, 2012 to be effective immediately.

### 1:35A-3. Records

(a) Confidentiality. All records and information obtained and maintained by the Judicial Performance Program [Committee] concerning judicial performance shall be confidential and shall not be disclosed except in accordance with this Rule. The Program [Committee] shall ensure the confidentiality of information received under the evaluation program regarding the performance of judges, and shall ensure the confidentiality of the identity and preserve the anonymity of responding individuals and other persons who may be requested to furnish evaluation information.

(b) Disclosure. Individual records and information pertaining to the performance and evaluation of judges shall not be disclosed except as follows:

(1) A judge may obtain summaries of responses to questionnaires or other information concerning the judge's own performance, provided that the summaries are presented in a manner that will not disclose the identity of any person furnishing such responses or information. Such responses or information shall be disclosed only if based on sufficient data to ensure the statistical reliability of the evaluation information.

(2) Records or information of the Program [Committee] concerning the performance of a judge may be disclosed to the Supreme Court, the Assignment Judge of that judge's vicinage, and the Judicial Evaluation Commission established pursuant to Rule 1:35A-4.

(3) Information of the Program [Committee] concerning the performance of a judge who is under consideration for reappointment may be disclosed to the Governor and the Senate Judiciary Committee, under such conditions as the Court may deem appropriate. Such information shall be presented in the form of summaries of aggregate

data of performance evaluation pertaining to the judge being considered for reappointment. A copy of such information shall be furnished to the judge, who may present to the Supreme Court written objections to or comments thereto prior to its disclosure.

(4) Notwithstanding these restrictions and conditions on disclosure, upon the written request of a judge, and for good cause, the Supreme Court may release evaluation information relating to the performance of the judge. The manner and content of any such disclosure shall be consistent with the objectives of the Judicial Performance Program, shall not reveal the names of responding individuals or specific court matters involved, and shall comport with notions of fairness to the judge and the preservation of the independence and integrity of the Judiciary.

Note: Adopted June 2, 1988 to be effective immediately; paragraphs (a) and (b) amended October 23, 2012 to be effective immediately.

#### 1:35A-4. Judicial Evaluation Commission

The Supreme Court shall appoint a Judicial Evaluation Commission of at least three retired judges for terms of three years, who may be reappointed for such additional term or terms as the Court shall determine. The Court shall designate one member to chair the Commission. The Commission shall assist the Judicial Performance Program [Committee] generally, shall assist in the review of evaluation information, shall provide consultation and assistance to individual judges, shall assist in the development and administration of instructional and judicial performance improvement programs in cooperation with the Judicial College and other judicial education programs, and shall perform such other functions as may be assigned to it by the Supreme Court or the Judicial Performance Program [Committee].

Note: Adopted June 2, 1988 to be effective immediately; amended March 28, 1994 to be effective September 1, 1994; amended October 23, 2012 to be effective immediately.