NOTICE TO THE BAR

REGULATIONS GOVERNING THE SUPREME COURT COMMITTEE ON CHARACTER – AMENDMENTS REGARDING STIPULATION TO CONDITIONS BY CONSENT

The notice is to advise that the Supreme Court of New Jersey has adopted certain amendments to the Regulations Governing the Supreme Court Committee on Character. Under Rule 1:25, the Committee on Character is charged with determining the good character and fitness of candidates for admission to practice law in New Jersey. The Committee on Character also is authorized to prescribe Regulations governing its practice and procedures, subject to the approval of the Supreme Court. The amendments announced by this notice are to Regulations 302:2, 303:8 and 304:2, and authorize the Committee on Character to admit candidates subject to specific conditions by consent of the candidate without the need for hearings, reports, or action by the Supreme Court. The amendments are effective July 1, 2017.

By Notice to the Bar dated April 3, 2017, the Supreme Court published proposed amendments to the Regulations that were recommended by the Committee on Character after a significant review and assessment of its current Regulations. The amendments proposed by the Committee on Character included numerous changes intended "to expedite consideration and disposition of character applications and also to provide additional guidance to candidates for admission," including provisions allowing for admission by stipulation of conditions on consent. The original notice requested that comments be submitted by May 3, 2017. A second notice dated May 3, 2017, extended the comment period to May 24, 2017. In addition, by notice dated May 16, 2017, the Supreme Court allowed members of the public to comment on the proposed amendments at the public hearing on Supreme Court Committee reports, held on Tuesday, May 30, 2017.

The Supreme Court considered the written comments received in response to the proposed amendments as well as the oral comments provided at the hearing of May 30, 2017. Some comments welcomed the effort to improve the applicable procedures and supported some of the proposed amendments. Other comments objected to certain aspects of the proposed amendments and requested that the Supreme Court start the process of considering revisions to the Regulations anew. Notably, none of the comments took exception to the proposed amendments to allow for the stipulation of conditions by consent. The Supreme Court took note that several of the comments complained that candidates experienced excessive delays in the character review process, and the representations of the Committee on Character that authorizing stipulations would expedite the character review process for many candidates now awaiting admission.

As a result, the Supreme Court requested its Ad Hoc Committee on the Character Review Process, which the Court created in March 2017 to report on certain aspects of

character review, to consider whether the Court should adopt amendments now that would authorize stipulation of conditions by consent, without taking action on the many other proposed amendments. The Ad Hoc Committee expedited its review of the issue and recommended that the Supreme Court adopt such amendments forthwith. The Ad Hoc Committee submitted to the Supreme Court limited proposed amendments regarding the stipulation of conditions by consent that included the substance of the provisions that were included in the proposed amendments published on April 3, 2017.

The Supreme Court considered the amendments proposed by the Ad Hoc Committee and, with minor exceptions, determined to adopt those amendments to be effective July 1, 2017. The adopted amendments to the Regulations are attached, with new text shown by underscoring and deleted text shown in brackets.

The Supreme Court will announce at a future date action on the other proposed amendments to the Regulations that were published for comment on April 3, 2017.

/s/ Mark Neary

Mark Neary
Clerk, Supreme Court of New Jersey

Dated: June 26, 2017

STATE OF NEW JERSEY
COMMITTEE ON CHARACTER
Appointed by the Supreme Court of New Jersey

REGULATIONS GOVERNING THE COMMITTEE ON CHARACTER (Approved, as amended, by the Supreme Court, effective July 1, 2017)

PART III CERTIFICATION PROCEDURES

REGULATION 302. Initial Review and Certification

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302:2 Interview Procedures.

a. A candidate and any other persons with knowledge relevant to the candidate's character and fitness to practice law may be asked to appear for an informal interview before the member or members. The interview shall be conducted in private unless the candidate requests otherwise. The candidate has the right to be represented by counsel. Testimony may be given under oath, and a verbatim record may be taken at the request of either the Committee or the candidate. Any member of the Committee is authorized to administer the oath to the candidate and such witnesses as may appear before the Committee. The Committee shall not be bound by the strict rules of evidence. Whenever a transcript of the record is ordered, a copy shall be furnished to the candidate.

b. Subsequent to the interview, the interviewing Committee member or members, with the approval of their Part Chair or of the Statewide Chair, may offer the candidate the opportunity to consent to admission subject to specific conditions. In such cases, the candidate shall be provided with a stipulation of conditions by consent. All stipulations of conditions by consent shall include the following: a recommendation that the candidate consider the matter carefully and that he or she consult with an attorney; and the candidate's assertion that consent is freely and voluntarily given, that he or she has not been subjected to coercion or duress, and that he or she is not under any impairment that would prevent his or her knowing and voluntary consent. The candidate shall be

given thirty (30) days to sign the stipulation. All stipulations of conditions by consent must be reviewed by the Statewide Panel in accordance with RG 304:2(d).

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REGULATION 303. Part Hearing

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303:8 Determination; Report and Recommendations. On the conclusion of the hearing, if the evidence adduced clearly and convincingly demonstrates that the matter could have been resolved appropriately through the informal interview process set forth in RG. 302, the Panel may certify the candidate pursuant to RG. 302:3. [In all other matters, the Panel shall issue a report.] The vote of each member shall be expressly noted. Any Panel member who does not join in the report may prepare a separate report.

a. If the Panel determines that the candidate can be admitted subject to specific conditions, the Panel may offer the candidate the opportunity to consent to admission subject to those conditions. In such cases, the Panel shall not issue a report. The candidate shall be provided with a stipulation of conditions by consent. All stipulations of conditions by consent shall include the following: a recommendation that the candidate consider the matter carefully and that he or she consult with an attorney; and the candidate's assertion that his or her consent is freely and voluntarily given, that he or she has not been subjected to coercion or duress, and that he or she is not under any impairment that would prevent his or her knowing and voluntary consent. The candidate shall be given thirty (30) days to sign the stipulation. All stipulations of conditions by consent must be reviewed by the Statewide Panel in accordance with RG 304:2(d).

b. [a.] If the Panel determines to certify the candidate, it shall file a report with the Secretary and the Statewide Panel. A copy shall be sent forthwith to the candidate.

c. [b.] If the Panel determines to recommend that certification be withheld, it shall file a report with the Secretary and the Statewide Panel. A copy shall be sent forthwith to the candidate. On receipt thereof, a candidate may file an appeal pursuant to RG. 304:1. Reasons for withholding certifications may include, but need not be limited to, the criteria listed in RG. 302:1.

d. [c.] In cases in which the Panel determines that inappropriate conduct has resulted from substance abuse, mental illness, psychological disorder, or such other grounds as the Committee, with good cause, may determine or when the candidate has been treated for substance abuse or bipolar disorder, schizophrenia, paranoia, or other psychotic disease within the twelve months preceding the submission of the Statement, the Panel may recommend certification subject to conditions. If the Panel determines to certify with conditions, it shall file a report with the Secretary and the Statewide Panel. A copy shall be sent forthwith to the candidate, who may file an appeal pursuant to RG. 304:1.

REGULATION 304. Review of RG 303 Hearing Reports and Recommendations and Stipulations of Conditions by Consent

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304:2 Review by Statewide Panel. The Statewide Panel shall review every report and recommendation made by a Hearing Panel pursuant to RG. 303, unless an appeal is taken pursuant to RG. 304:1. The Statewide Panel also shall review all stipulations of conditions by consent. The Statewide Panel shall have plenary powers to:

a. Approve the recommendations of the Hearing Panel;
b. Modify the recommendation, including recommending, rejecting, or modifying proposed conditions;
c. Recommend the withholding of certification;[or]
d. Approve a stipulation of conditions by consent, after which the candidate may be certified for admission with conditions without further review by the Supreme Court;
e. Reject a stipulation of conditions by consent, after which the matter will be referred for further proceedings in accordance with the directions of the Chair of the Statewide Panel;
f. Modify the conditions in any stipulation of conditions by consent and offer the candidate the opportunity to consent to the conditions as modified. The candidate shall be given thirty (30) days to sign the stipulation. If the candidate does not consent to the conditions as modified, the matter will be referred for further proceedings in accordance with the directions of the Chair of the Statewide Panel; or
g. [d.] Remand the matter to the Hearing Panel for further proceedings.

The Statewide Panel shall take final action on a stipulation of conditions by consent in accordance with d, e or f above within 30 days of the date the candidate signs the stipulation. With the exception of actions taken regarding stipulations of conditions by consent, [T]the Statewide Panel shall file [its] a report and recommendation with the Secretary who shall refer the report to the Supreme Court for final approval pursuant to RG. 304:3. A copy shall be sent forthwith to the candidate. If the Statewide Panel's recommendation is to withhold certification, or to certify with conditions, the candidate shall have fifteen days from the filing date of the report within which to submit an original plus eight copies of written exceptions to the Supreme Court on the papers submitted unless the Court directs additional filings or oral argument. The decision of the Supreme Court shall be transmitted by the Clerk of the Supreme Court to the candidate and to the Committee on Character.

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