

## District Ethics Committee (DEC) Candidates

### Summary of Duties; Terms; Time Commitment; and Appointments Process

- District Ethics Committee (DEC) members serve at the pleasure of the Supreme Court for a four-year term (and are eligible for re-appointment to one additional consecutive four-year term).
- Service on the DEC includes the obligation to keep confidential all information which the Supreme Court has designated as confidential attorney disciplinary information. It is mandatory that all volunteers for the DEC abide by the confidentiality rules and procedures.
- The work of all who participate on the DEC is provided on a volunteer basis, and the attorney disciplinary system in New Jersey depends on – and thrives because of – the dedication, commitment, and efforts of all of the volunteers (who include all committee members and officers).
- There is a *pro bono* exemption for attorney members. Attorney members also receive 2 CLE credits in ethics/professionalism for every year of DEC membership.
- Selected attorney candidates should expect to spend at least 12 hours per month on ethics work, depending on the workload of the particular committee. Selected public members may expect to spend approximately 3 hours per month on ethics work, depending on their particular hearing assignments, on the workload of the committee, and on their other committee assignments, such as grievance review (see **DPM** description below).
- In addition, all selected members are required to attend monthly DEC meetings. The **public members** are absolutely essential to this process, as they bring an indispensable and invaluable perspective to meetings. Monthly meetings last approximately an hour to an hour-and-a-half, at the end of the business day.
- **Public members** also may be asked to serve as a "designated public member" (**DPM**) to review a DEC secretary's decision to decline to docket a grievance. If the DPM does not concur in that decision, then the matter must be docketed and investigated. If the DPM does concur in that decision, the declination is not appealable.
- Attorney members investigate grievances and prosecute complaints.
  - The Supreme Court has set time goals for the completion of investigations and hearings. Part of the DEC officers' and attorney-member's job is to complete the investigation and/or hearing within those time goals without compromising the quality of the work product.
  - The assigned attorney **Investigator** determines both the facts and the law surrounding the grievance and reports them in an investigation report, which concludes with the statement of whether the evidence meets the clear and convincing standard for the filing of any charge of violation of any RPC or any other ethics rule or law against the respondent attorney. There is a six- or nine-month time goal for the completion of this report, depending on whether the matter is categorized by the Office of Attorney Ethics (**OAE**) as "standard" or "complex."
  - The assigned attorney **Presenter** (who may also have served as the Investigator, up to the point that the complaint is issued) acts as a "prosecutor" in a disciplinary hearing after the filing of a formal complaint. The Rules of Evidence are relaxed but not suspended for such proceedings, and the Presenter should expect to prepare for the hearing as for any other civil or criminal case, including preparation of legal issues, as they arise (such as the submission of a written summation brief). After the hearing, the Presenter may be called upon to argue the case before the statewide Disciplinary Review Board (**DRB**), if the DEC hearing panel makes a finding of unethical conduct and makes a recommendation for discipline greater than an admonition. The Presenter may be asked to submit an additional letter-brief to the DRB summarizing the issues.

- The **hearing panel chair** (an attorney) is the DEC lead on the three-member hearing panel (made up of one additional attorney member and one public member of that DEC) and is responsible for preparing the hearing panel report and the record for submission to the DRB. The hearing may not proceed without a public member sitting on the panel.
- Hearings are public and are held during the regular business hours. Candidates who cannot commit to attend hearings during regular business hours should refrain from volunteering for service on a DEC. All hearings are held in a formal courtroom setting and are recorded, either through the CourtSmart system or by a State-authorized court reporting service.
- The Supreme Court is the only entity constitutionally empowered to impose attorney discipline. In most cases, the Court issues an Order of discipline based on the DRB's decision. But if the Court issues an Order to Show Cause, requiring the attorney to appear before the Court, either on its own motion or at the request of one of the parties, a staff attorney from the OAE will appear before the Court and argue the matter. The DEC will be fully informed of the outcome of the matter.
- Both attorney and public member candidate names (along with resumes or candidate summaries) are submitted by the DEC Vice Chairs to the OAE Statewide Coordinator's office several months before the start of the term of service (which will begin on September 1) each year. Ethics checks are run on every attorney candidate, after which the names of all candidates are sent to the vicinage Assignment Judge for review. It is the responsibility of all district officers to take continuing steps to recruit new candidates for seats on the DEC. The pool of candidates should reflect the diversity of the bar and the community in the particular district.
- Thereafter, all candidate names are submitted to the Supreme Court Justice liaison for each DEC. More candidate names than actual vacancies are submitted to the Justices to allow for choice and variation, and to make sure that the liaison Justice will have a meaningful opportunity to select from a cross section of candidates from each district.
- Actual selections are made by the Supreme Court Justice liaison for each DEC, after review by the vicinage Assignment Judge.
- Because of the variation in the selection practices of each liaison Justice, candidates should not expect to hear from the OAE regarding whether they have been selected until close to the start of the new term of service, which commences on September 1 of each year.
- Selected candidates will be invited to attend a half-day orientation/training session to be offered in the late summer/early September each year.
- Selected candidates will receive meeting schedules directly from their committee officers.
- Training and reference materials will be provided by the OAE to all selected candidates.
- Selection by the Supreme Court for membership on one of its DEC's is indeed an honor, but it also entails substantial and difficult responsibilities. Thus, candidates must be sure that they are able to make the significant time commitment that will be expected of them. Furthermore, all candidates – and particularly attorney candidates – must understand that they may be asked and expected to make difficult determinations at the end of their investigations and prosecutions/hearings, which ultimately may affect a fellow attorney's ability to practice law. Candidates who do not wish to be asked to make these difficult determinations may want to look into the many other available opportunities of volunteer public service.
- On completion of their term of service, DEC members are encouraged to seek appointment to the District Fee Arbitration Committees, which are also overseen by the Supreme Court.