

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2  
3   **July 15, 2020**

4  
5                   **NO. 20-8500-029**

6  
7                   **IN THE MATTER OF THE EFFECTIVE**  
8                   **ADMINISTRATION OF THE MAGISTRATE**  
9                   **COURT SYSTEM IN NEW MEXICO**

10  
11   **ORDER**

12  
13                   WHEREAS, by Supreme Court Administrative Order No. 19-8500-001, *In*  
14                   *the Matter of the Consolidation of Administrative Functions of the District and*  
15                   *Magistrate Courts*, this Court directed that the administrative functions of all  
16                   district and magistrate courts shall be consolidated statewide, by judicial district,  
17                   with the chief judge in each judicial district expected to exercise administrative  
18                   authority over the district and magistrate courts in the judicial district in  
19                   accordance with the chief judge’s powers of superintending control as provided  
20                   under law and by order of this Court;

21                   WHEREAS, the chief judge in each judicial district, through the chief  
22                   judge’s superintending control over magistrate courts in the judicial district, has  
23                   the power and obligation to oversee the conduct of the magistrate judges in the  
24                   chief judge’s judicial district, which may include counseling and taking corrective  
25                   action to address any inappropriate behavior of a magistrate judge;

1           WHEREAS, to assist the chief judges in their obligation to exercise  
2 supervisory control over the magistrate judges in their respective judicial districts,  
3 this Court issued Administrative Order No. 19-8500-003, *In the Matter of the*  
4 *Effective Administration of the Magistrate Court System*, on April 12, 2019, to  
5 provide a process for the chief judge in each judicial district to consult with the  
6 Magistrate Judges Advisory Committee when, in a chief judge's discretion, doing  
7 so would promote the effective administration of the justice; and

8           WHEREAS, the Chief Judges Council has requested and recommended  
9 revisions to clarify the process for consulting with the Magistrate Judges Advisory  
10 Committee and prescribing duties to designated presiding magistrate judges, and  
11 the Court having considered the recommendation and being sufficiently advised,  
12 Chief Justice Michael E. Vigil, Justice Barbara J. Vigil, Justice Judith K.  
13 Nakamura, Justice C. Shannon Bacon, and Justice David K. Thomson concurring;

14           NOW, THEREFORE, IT IS ORDERED that Supreme Court Administrative  
15 Order No. 19-8500-003, *In the Matter of the Effective Administration of the*  
16 *Magistrate Court System*, filed on April 12, 2019, is RESCINDED and replaced  
17 with this order;

18           IT IS FURTHER ORDERED that a chief judge who knows that a magistrate  
19 judge has committed a violation of the Code of Judicial Conduct that raises a  
20 substantial question regarding the judge's honesty, trustworthiness, or fitness as a

1 judge in other respects shall inform the Judicial Standards Commission in  
2 accordance with Rule 21-215(A) NMRA;

3 IT IS FURTHER ORDERED that a chief judge who receives information  
4 indicating a substantial likelihood that a magistrate judge has committed a  
5 violation of the Code of Judicial Conduct shall take appropriate action in the chief  
6 judge's discretion, which may include, but is not limited to, communicating  
7 directly with the magistrate judge or that magistrate's supervising judge, referring  
8 the matter to the Magistrate Judges Advisory Committee, or reporting the  
9 suspected violation to the Judicial Standards Commission. See Rule 21-215(C)  
10 NMRA and Committee Commentary, Section 2;

11 IT IS FURTHER ORDERED that a chief judge may refer a magistrate judge  
12 in the chief judge's judicial district to the Magistrate Judges Advisory Committee  
13 to assess the magistrate judge's need for training and mentorship irrespective of  
14 whether there may be a substantial likelihood that the magistrate judge committed  
15 a violation of the Code of Judicial Conduct or is at risk for doing so in the future;

16 IT IS FURTHER ORDERED that the Magistrate Judges Advisory  
17 Committee, whose members are appointed by this Court, shall function in an  
18 advisory capacity to the chief judge in each judicial district to assist the assist the  
19 chief judges in counseling and mentoring magistrate judges as deemed appropriate  
20 in the discretion of the chief judge;

1           IT IS FURTHER ORDERED that the chief judge in each judicial district  
2 shall have the authority to require any magistrate judge within the chief judge's  
3 judicial district to cooperate with the Magistrate Judges Advisory Committee or  
4 with a mentor recommended by the committee;

5           IT IS FURTHER ORDERED that, when a matter is referred to the  
6 Magistrate Judges Advisory Committee by a chief judge, the committee shall  
7 conduct an investigation, meet with the referred magistrate judge in person or by  
8 telephone as deemed appropriate by the committee, and report back to the chief  
9 judge with any findings and recommendations made by the committee;

10          IT IS FURTHER ORDERED that the Administrative Office of the Courts  
11 shall distribute updated procedures for the operations of the Magistrate Judges  
12 Advisory Committee to reflect that it is the chief judge in each judicial district,  
13 rather than the Administrative Office of the Courts, who will consult with, and take  
14 action on recommendations of, the Magistrate Judges Advisory Committee. The  
15 updated procedures distributed by the Administrative Office of the Courts shall  
16 include the manner in which referrals are made by a chief judge and the manner in  
17 which reports and recommendations are transmitted back to a chief judge, a copy  
18 of which is attached to this order;

19          IT IS FURTHER ORDERED that any recommendations to a chief judge  
20 from the Magistrate Judges Advisory Committee may be accepted, rejected, or

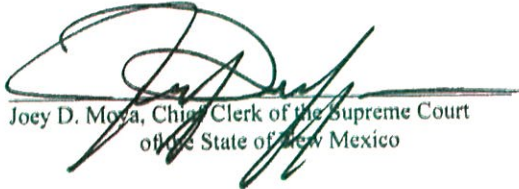
1 modified, as deemed appropriate in the discretion of the chief judge who referred  
2 the matter to the committee, when doing so would promote the effective  
3 administration of the justice in the magistrate courts; and

4 IT IS FURTHER ORDERED that any duties assigned to a designated  
5 presiding magistrate judge under Supreme Court Administrative Order No. 19-  
6 8500-001 shall be in accordance with the *Presiding Magistrate Judge Duties*  
7 approved by this Court, which are attached to this order.

8 IT IS SO ORDERED.



WITNESS, the Honorable Michael E. Vigil, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 15th day of July, 2020.

  
Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

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## **NM Magistrate Judge Advisory Committee Purpose and Procedures**

The **NM Magistrate Judge Advisory Committee** consists of a group of five (5) New Mexico Magistrates, in good standing, and appointed by the New Mexico Supreme Court, for specific terms.

The **Magistrate Judge Advisory Committee** will select a chairperson, by majority vote of standing members, at the beginning of each calendar year. That chairperson will serve for the calendar year and shall preside over all Magistrate Judge Advisory Committee meetings. The chairperson is responsible for writing or designating, if agreed to, the writer of the Committee's recommendations.

The **NM Magistrate Judge Advisory Committee** will initially discuss, and may address, any and all referrals from a Chief District Court Judge.

### **Purpose:**

The Magistrate Judge Advisory Committee's purpose is to assist Magistrate Court Judges who have been referred by a Chief Judge of a Judicial District, by hearing all sides of the issues, and providing guidance, mentoring, training referrals, education referrals, or any other assistance that is warranted.

The Magistrate Judge Advisory Committee may also recommend immediate referral of a Judge to the NM Judicial Standards Commission (JSC), if the Committee finds the issues so egregious that the referral is warranted.

The Magistrate Judge Advisory Committee will make all recommendations and referrals to the referring Chief District Court Judge, in written form, for follow-up.

### **Procedure:**

1. The Chief Judge of a Judicial District receives a referral or complaints about conduct or practices of a magistrate judge in the Judicial District, from an individual or individuals, and reviews the allegations made.
2. The Chief District Judge will evaluate the matter and determine if the referred judge has committed a violation of the Code of Judicial Conduct that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects. If the Chief District Judge determines that there has been such a violation, then he or she shall inform the Judicial Standards Commission, pursuant to Rule 21-215 NMRA.

3. If the matter is not referred to the Judicial Standards Commission, the Chief District Judge will take any other steps necessary to comply with the supervisory duties required by Rule 21-212 NMRA, including, but not limited to, referral of the matter to the Magistrate Judge Advisory Committee.
4. Within 30 days of the referral or complaint, if the Chief District Judge determines that the matter should go before the Magistrate Judge Advisory Committee, then the Chief District Judge will initiate a telephone meeting with committee members to discuss the matter or matters.
5. If one of the members of the Magistrate Judge Advisory Committee is the subject of a referral or complaint, then the Chief District Judge shall confer with the other, remaining members of the Committee, and the referred member shall recuse him/herself from any involvement in advisory decisions. The affected member shall be treated, and shall respond to requests, in the same manner as any other referred judge under these procedures.
6. The Chief District Judge will forward all relevant documents in the Judge's possession, to the members of the Magistrate Judge Advisory Committee, in the most secure manner available, taking into consideration confidentiality.
7. Members of the Magistrate Judge Advisory Committee will secure the documents received and will destroy these documents when the case is completed.
8. The Magistrate Judge Advisory Committee, along with the Chief District Judge, will determine whether any further investigation of the matter is warranted.
9. The Magistrate Judge Advisory Committee may meet with the judge(s) in question, any court staff, and/or anyone else who may have information relevant to the matter at hand which may be necessary for the Committee to form a comprehensive recommendation to the referring Chief District Judge.
10. If a meeting with the judge(s), staff, or any other concerned party is to be held, then the meeting(s) will be scheduled within 30-days of the decision to meet.
11. After the Magistrate Judge Advisory Committee concludes all meetings and review of information provided, and forms a recommendation(s), the Committee will submit a document with the recommendation(s) and referral(s) to the Chief District Judge within 10 business days.
12. Within 30-days, after the receipt of the Magistrate Judge Advisory Committee's recommendation(s) and referral(s), the Chief District Judge will inform the Committee of the implementation of the recommendation(s) and referral(s), or any other process(es) that may be taking place.

**Range of Recommendations:**

The Magistrate Judge Advisory Committee may:

- Recommend that no action be taken.
- Provide guidance to the judge(s) to enable them to succeed.
- Recommend that further particularized training be provided.
- Recommend that a trained mentor be assigned.
- Recommend attendance and completion of any counseling programs as recommend by an Employee Assistance Program.
- Recommend that a case be referred to the NM Judicial Standards Commission.
- Recommend any other process or processes that would enable the judge(s) to succeed.

**Confidentiality:**

The members of the NM Magistrate Judge Advisory Committee and the Chief District Judge shall adhere to the strictest requirements of confidentiality as directed by the NM Code of Judicial Conduct.



### Presiding Magistrate Judge Duties

A presiding judge, designee, or the judge in a single-judge court shall comply with the following responsibilities.

1. The Presiding Magistrate Judge provides leadership for the Magistrate Court; serves as the intermediary between the court over which the judge presides and the chief judge of the judicial district;
2. Reports any questions or concerns regarding the management and operation of the court to the chief judge, Chief Executive Officer (CEO), or deputy CEO of the judicial district;
3. Implements and monitors compliance with all statutes, policies, rules, and procedures established by the district court, Supreme Court, and the Administrative Office of the Courts as directed by the chief judge, CEO, or deputy CEO of the judicial district;
4. Counsels and assists associate judges in the performance of their responsibilities in the administration of the court, and assists associate judges in their initial orientation to the bench; encourages participation in all continuing education and training programs provided for members of the court, as directed by the chief judge;
5. May call and preside over meetings of the court; attends meetings of the judicial district court, as required by the chief district judge;
6. Confers and communicates with associate judges and court staff to propose new and amended local rules and internal policies and procedures for the conduct of the court's business, supervises the enforcement of these rules, and recommends changes to the chief judge;
7. Monitors the court manager's evaluation of subordinate staff; monitors the court manager's performance and provides information to the chief judge, or designee, regarding that performance, as appropriate or when requested by the chief judge or designee;
8. Supervises court compliance with the policies and procedures of the AOC, and acts as the primary signatory for checks issued by the

magistrate court and end of month financial reports, in accordance with Section 35-7-3 NMSA 1978;

9. Collaborates in the collection of statistical data and the management of information systems, pursuant to procedures established by the Judicial Information Division of the AOC;

10. Collaborates with the court manager regarding judge case allocation in the court, and submits the recommendation to the CEO and/or chief judge for approval;

11. Along with the court manager and chief judge or CEO, responds to AOC internal audit requests and attends the delivery of internal audit reports;

12. In collaboration with the chief judge, establishes office hours for associate judges, and the hours during which associate judges must be on-call to conduct court business after regularly scheduled hours of court; submits for approval by the chief judge, all proposed hours, which shall not become effective until approved by the chief judge;

13. Coordinates with the CEO/deputy CEO to determine inclement weather closures/delays;

14. Along with associate judges, coordinates vacation time/time off to ensure the court has appropriate coverage to continue operations; vacation time shall be approved by the chief judge;

15. Oversees juror management along with the court manager, as directed by the chief judge or CEO;

16. Coordinates with the AOC, the chief judge, CEO, and the court manager, the use of space, equipment, and facilities of the court;

17. Reports to the chief judge, any scheduling, procedural, or administrative difficulties arising among the judges; and

18. Complies with any other duties and responsibilities assigned by the chief judge of the judicial district.