

## **Rule 56. Temporary Assignment to Other Duties**

**(a) Policy.** In order to promote public confidence in the integrity and impartiality of the judiciary, and taking into consideration the nature and severity of any charges against or implications of improper conduct by a judge, a chief judge of the circuit court, or the presiding judge in the appellate court, whichever the case may be, may temporarily assign a judge to restricted duties or duties other than judicial duties. A chief circuit judge, or the presiding appellate judge, whichever the case may be, shall enter a written administrative order setting out the reasons for such assignments. The reasons for such assignments may include, but need not be limited to, the following:

(1) the judge has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon the judge's fitness to serve; or

(2) a complaint has been filed with the Courts Commission by the Judicial Inquiry Board or a judge has allegedly committed a violation of the Code of Judicial Conduct which involves fraud, moral turpitude, persistent nonperformance of judicial duties or threatens irreparable injury to the public, to the judicial branch of government, or to the orderly administration of justice;

(3) a judge has been publicly implicated in conduct which, if true, would constitute impropriety or an appearance of impropriety which involves moral turpitude or threatens irreparable injury to the public, to the judicial branch of government, or to the orderly administration of justice; or

(4) There is reasonable cause to believe that a medical examination would reveal that a judge is mentally incompetent or physically unable to perform his or her duties, whether the impairment is caused by injury, infirmity, a chemical dependency, other disease, or by any other cause whatever, and it appears that the incompetence is or may be permanent or will likely be of such duration that the judge's continued assignment to judicial duties could result in irreparable injury to the public, impede the orderly administration of justice, or bring dishonor on the judicial system. Determinations as to a judge's mental or physical ability to perform his or her duties shall be in compliance with all applicable federal and state disability laws.

**(b) Form and Service of Order.** The chief judge's order shall be served personally upon the judge. If the judge is unavailable or the judge's whereabouts are unknown, the order shall be served by mailing a copy of the order by ordinary mail to the judge's last known address.

**(c) Petition for Return to Full Assignment.** Any judge temporarily assigned pursuant to this rule may request that the chief judge vacate the order. In the alternative the judge may, at any time, petition the Supreme Court for a return to full-duty assignment. A petition filed with the Supreme Court shall be in accordance with procedures outlined in Rule 383.

Adopted November 29, 1990, effective December 1, 1990; [amended December 1, 2008, effective immediately.](#)

### Committee Comments

Each judge is elected or appointed to a term of office specified by section 10 of article VI of

the Illinois Constitution. During such tenure, a judge is vested with the full jurisdiction of the court to which elected or appointed. However, the matters over which the judge may exercise that jurisdiction on a day-to-day basis is determined in large measure by the judge's *assignment* and is subject to the chief judge's general administrative authority. (Supreme Court Rule 21(b); see *People v. Joseph* (1986), 113 Ill. 2d 36.) The chief circuit judge may assign any judge serving in the circuit to any judicial duty. Assignment of a judge to restricted duties or to duties other than judicial duties (or assignment to no duties) is not expressly dealt with in the Illinois Constitution, but the Committee believes that power falls within the general administrative powers granted to the chief judge by our constitution.

While not normally considered a binding authority on the interpretation of the Illinois Constitution, the Illinois Courts Commission appears to confirm that, in its opinion, the chief circuit judge does possess such power.

In *In re Murphy* (1968), 1 Ill. Cts. Com. 3, the Courts Commission found that Chief Circuit Judge Boyle had acted properly (and, presumably, within the scope of his constitutional powers) when he relieved the respondent of his duties both before the investigation commenced and during the pendency of proceedings before the Commission:

“[T]his Commission finds:

(1) That the action of Chief Judge Boyle in relieving this respondent of his duties and his letter suggesting to the Supreme Court that an investigation should be made by the Commission was a proper action;

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(6) That the action of Chief Judge Boyle in relieving the respondent of his duties during the pendency of this hearing was proper.”

This rule suggests circumstances which might warrant assignment of judges to restricted duties or to duties other than judicial duties and provides a procedure by which a chief circuit judge may temporarily assign judges to restricted duties or to duties other than judicial duties. This rule is modeled, in part, on Rule 774, Interim Suspension, under which the Supreme Court, on its own motion or on motion of the ARDC Administrator, may temporarily suspend an attorney from the practice of law, pending the outcome of prosecutions or investigations.

A judge assigned under this rule may seek relief either by asking the chief judge to vacate the order or by petitioning the Supreme Court for a return to a full-duty assignment. If the judge believes that a request directed to the chief judge would be unavailing, the judge is not bound to exhaust that possible remedy before filing his petition with the Supreme Court.

Assignments under this rule do not affect a judge's right to salary or to any of the emoluments of office, and are not disciplinary in nature. (*Cf. In re Kaye* (1974), 1 Ill. Cts. Com. 36.) If a judge is to be removed from office, suspended without pay, censured or reprimanded for any misconduct, or if a judge is to be suspended, with or without pay, or retired for being either physically or mentally unable to perform his or her duties, the Judicial Inquiry Board and the Courts Commission are responsible for conducting hearings and proceedings and imposing whatever remedy may be appropriate.

