

**SUPREME COURT OF NEW JERSEY
DISTRICT V-B ETHICS COMMITTEE**



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Reply to: Kevin Crawford Orr, Esq.
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Phone: (973) 824-5520
Kevin.Orr@orr-law.com

December 2, 2015

Re: District Ethics Committee VB - Candidate for Appointment (Public Member)

Dear Public Candidate:

I am the incoming Vice-Chair of the Supreme Court's District V-B Ethics Committee, which is charged with investigating, presenting and adjudicating cases arising out of alleged misconduct of attorneys with offices in Suburban Essex County (East Orange, Irvington, Maplewood, Millburn, Orange, Short Hills, South Orange and West Orange). I have been tasked with recruiting new volunteer attorney and non-attorney/public member candidates who live or work in Essex County to serve four-year terms beginning September 2016. Our committee has a strong need for new public members, which are an integral part of the process.

To provide some basic background information about the position: The process begins with the filing of a grievance concerning an attorney. The grievance may be filed by a former client, an adversary, a judge or anyone who believes an attorney has violated the Rules of Professional Conduct that govern our attorneys. If the District Secretary docket the grievance, our attorney members will conduct a thorough investigation. At the conclusion of the investigation, the assigned attorney-investigator renders a report to the Committee's Chair stating whether (s)he has found clear and convincing evidence that the respondent-attorney has violated one or more of the Rules of Professional Conduct. In the event there is such evidence, the case will proceed to a Complaint (absent certain exceptions) and a hearing will be scheduled.

It is primarily at the hearing stage where the public members enter the process. At the hearing, the attorney member who investigated the matter will present the case to a panel of two attorney members and one public member of the Committee. All members of the panel take an



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active role in both receiving and considering evidence, and asking questions of the participants if they choose to do so. Following the conclusion of the hearing, the panel deliberates and renders a hearing report with its findings. Depending on the findings, the panel will recommend dismissal or an appropriate measure of discipline.

The role of the public members, then, is to sit on hearing panels with the attorney members and take an active role in the adjudicative process. The service of public members is critical, and, in fact, the Court Rules specifically require that a public member be present at all hearings. Our public members bring an indispensable and invaluable perspective to the process and to support the Supreme Court's mission of maintaining public confidence in the integrity of the legal profession and the judicial process. Their participation validates the fairness of the process.

Public and attorney members are also required to attend the monthly meetings and the new member orientation in September 2016. The monthly meetings are usually one-hour in length, and they have historically been held on the first Tuesday of every month at 6:00 p.m. For at least the past few years, the meetings have been held at the law firm of Budd Lerner, LLP, 150 John F. Kennedy Parkway, Short Hills, and I anticipate we will use the same location in the upcoming years. New members are also required to attend an orientation usually held in September in New Brunswick.

Please note that the following persons are not eligible for membership as public members:

- Employees of law firms
- Persons who hold elective or appointive county, state or federal office
- Employees of any law enforcement agency
- Current members of the Supreme Court's fee arbitration committees

If you, or someone you know, are interested, please complete and return the enclosed Public Member form together with a current resume.

I appreciate your time and consideration, and please do not hesitate to contact me with any questions you may have, at 973-824-5520 or Kevin.Orr@orr-law.com.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "Kevin Orr", written over the typed name.

Kevin Crawford Orr, Esq.

KCO:dp
Encl.

**POTENTIAL PUBLIC MEMBER
(2016-2020 Term)**

District _____ Ethics Committee County(ies) _____

Name: (Mr., Ms., Mrs.) _____

First Middle Last

Address Residence _____ Business _____

Street: _____ Daytime Phone: (____) _____

City/Town: _____ Evening Phone: (____) _____

Zip Code: _____ Cell: (____) _____

County: _____ E-mail: _____

Recommended by: _____

Is this person a member of a minority group? _____ If so, state, which:
____ African American ____ Hispanic ____ Asian, Pacific Islander ____ American Indian
____ Other (specify) _____

Is this person currently serving on another committee? _____ If so, state name of committee _____

Was this person contacted? _____ By whom? _____ Date _____

Was the work of committee member explained to the candidate? _____

Vice Chair Comments: _____

With this form there **MUST** be submitted a resume of the candidate's background or a paragraph describing the candidate's work and/or public service or community activities, suitable for sending directly to the Supreme Court.

- Please note that the names of persons who hold elective or appointive county, state or federal office should not be submitted as candidates.
- Public member candidates **should not** be employed by a law firm
- Public member candidates **should not** be employed by **any law enforcement agency.**
- Current Fee Arbitration Committee members cannot serve on Ethics Committees.
- Candidates must be available for hearings during normal business hours.

Candidates must work or reside in the district for which they are proposed.

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).
- There is a *pro bono* exemption for attorney members. Attorney members also receive 2 CLE credits in ethics/professionalism for every year of 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)
- All selected members are required to attend monthly meetings during which most committees discuss pending investigations to some extent. The **public members** are absolutely essential to this process, as they bring an indispensable and invaluable perspective to it. Monthly meetings last approximately one (1) hour 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 attorney-member's job is to complete his/her investigation/hearing within those time goals without compromising the quality of his/her work product.
 - **Attorney investigator** determines both the facts and the law surrounding the grievance and reports them in his/her investigative report, together with an appropriate recommendation (*i.e.*, dismissal; diversion; formal complaint or other alternative charging document). There is a six or nine month time goal for the completion of this report, depending on whether the matter is categorized by the DEC secretary as "standard" or "complex."
 - **Presenter** (formerly investigator) acts as a "prosecutor" in a disciplinary hearing after the filing of a formal complaint. Several months after that hearing at the committee level is completed (and after the hearing panel renders its report), he/she then appears before the statewide Disciplinary Review Board (DRB) for an appellate-type argument 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 a letter brief to the DRB in some circumstances.
 - **Hearing panel chair** (an attorney) is the DEC lead on the three-member hearing panel (constituted from the originating DEC) and is responsible for preparing the hearing panel report and the record for submission to the Disciplinary Review Board.

- **Second attorney member** of the hearing panel also hears the charges of the complaint together with the **public member**. Hearings 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 hearings during regular business hours should reconsider a decision to volunteer 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 calling the matter on for argument, either on its own motion or at the request of one of the parties, a staff attorney from the Office of Attorney Ethics will appear before the Court and argue the matter. However, the DEC will be fully informed of the outcome of the matter.
- Both attorney and public member candidate names (along with resumes or bios) are submitted by the DEC Vice-Chairs to the OAE Statewide Coordinator's office by November 30th. Ethics checks are run on every attorney candidate, after which the names of all candidates are sent to the vicinage assignment judge for review.
- Thereafter, all candidate names are submitted to the Supreme Court liaison Justice for each DEC. More candidate names than actual vacancies are submitted to the Justices to allow for choice and variation.
- Actual selections are made by the Supreme Court Justice liaison for each District Ethics Committee, 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 Office of Attorney Ethics regarding whether they have been selected until late spring of next year.
- Selected candidates will be invited to attend a half-day orientation/training session to be offered in the late summer/early September.
- Selected candidates will receive meeting schedules directly from their committee officers.
- Training and reference materials will be provided by the Office of Attorney Ethics to all selected candidates.
- Selection by the Supreme Court for membership on one of its district ethics committees is indeed an honor. Attendant thereto however, are 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 should reconsider a decision to volunteer for service on an ethics committee.