

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO )  
COURT ADMINISTRATIVE RULES 1, 2, 3 ) ORDER  
and 4 )  
\_\_\_\_\_ )

The Court, having received a recommendation to amend Idaho Court Administrative Rules 1, 2, 3 and 4 and the Court being fully informed:

IT IS ORDERED that Idaho Court Administrative Rule 1, 2, 3 and 4 be amended as follows:

1. That Rule 1 be amended as follows:

## **Idaho Court Administrative Rule 1. Practice of Law by Magistrate Judge Prohibited.**

- (a) ~~No~~ A magistrate judge, whether ~~designated as full time magistrate~~ or part-time magistrate, ~~may~~ must not engage directly or indirectly in the practice of law;
- (b) ~~nor shall a~~ A magistrate judge must not be a member or associated with ~~or be a member~~ of any a law firm, ~~or~~ professional association, ~~or~~ corporation, or other organization engaged in the practice of law;
- (c) ~~nor shall a~~ A magistrate judge must not engage in any activity that will conflict with their duties as a ~~judge or magistrate judge~~.

2. That Rule 2 be amended as follows:

## **Idaho Court Administrative Rule 2. Removal of Magistrates Judge Without Cause.**

(a) **Statement of intent.** This rule is ~~promulgated by the Idaho Supreme Court pursuant to the authority of adopted under Idaho Code § section 1-2207(3); Idaho Code,~~ to govern the proceedings for the a magistrates commission's removal of a magistrate judge ~~by the magistrates commission~~ during their first ~~eighteen (18) months~~ in office after the magistrate takes office following appointment.

- (1) **Application.** The rule applies to a magistrate judge who is subject to a personnel review meeting or removal proceeding.
- (2) **Administrative proceeding.** Proceedings for the removal of a magistrate pursuant to this rule are Removal under this rule is an administrative personnel proceeding ~~s and shall~~ It is not be deemed adversarial or judicial in nature.

~~Formal rules of evidence~~ The Idaho Rules of Evidence shall do not apply to any proceeding under this rule.

- (3) **Information gathering.** ~~No provision of this~~ This rule does not shall be construed to limit a magistrates commission's ability to the gathering of necessary information. by the district magistrates commission. As used in these rules, "magistrate" refers to the magistrate who is the subject of the personnel review meeting or the removal proceedings.

(b) **Time and method of removal.** ~~At any time within eighteen (18) months after a magistrate takes office pursuant to appointment, the magistrate may be removed by a majority vote of all of the voting members of the appointing district magistrates commission. A majority vote of a quorum shall not suffice unless it is also a majority of the entire voting membership. A magistrates commission may remove a magistrate judge within 18 months of appointing them. Removal requires a majority vote of the voting membership.~~

(c) **Grounds for removal.** ~~A magistrate judge may be removed pursuant to under this rule without cause or and without a statement of the reason for removal.~~

(d) **Personnel review meeting.** ~~Prior to holding a removal hearing, the district A magistrates commission must shall hold a personnel review meeting. The purpose of the meeting is to determine if a removal hearing should be held.~~

- (1) **Who can call.** ~~The personnel review meeting may be called by:~~

~~(A) the district administrative~~ district judge (ADJ);

~~(B) or the judge's ADJ's designee; or~~

~~(C) by three members of the district magistrates commission upon written application to the administrative judge. on written request of three magistrates commission members to the ADJ.~~

- (2) **Meeting notice.**

~~(A) Reasonable notice shall be given to all district court magistrates commission members but need not be given to the magistrate. The magistrates commission members must receive reasonable notice.~~

~~(B) The magistrate judge does not have to receive notice of the personnel review meeting.~~

- (3) **Removal Hearing.** ~~The magistrates commission must shall set a removal hearing upon at the demand of three voting members of the commission.~~

(e) **Notice of Rremoval hearing, notice.** ~~Action to remove a magistrate may be taken at a regular or special meeting of the district magistrates commission upon no less than fourteen (14) days' written notice to all members of the district magistrates commission and the magistrate. A magistrate judge may be removed at a regular or special magistrates commission meeting.~~

- (1) **Who must receive notice.** Magistrates commission members and the magistrate judge must receive at least 14 days written notice of the removal hearing.
  - (2) **How notices served.**
    - (A) Notice to magistrate judge shall be. The magistrate judge must receive notice by personal service or ~~in such manner~~ as prescribed by the administrative judge ADJ. Proof of service ~~must~~ shall be lodged with the administrative judge ADJ. Such notice shall inform the magistrate that the purpose of the meeting is to consider the magistrate's removal pursuant to section 1-2207, Idaho Code, and that the magistrate may attend such portion of the meeting as permitted by the commission.
    - (B) Notice to magistrates commission members. Notice to the members of the district magistrates commission members shall ~~must~~ be given served by regular mail or personal delivery, and shall inform the member that the purpose of the meeting will be to consider the removal of the named magistrate and that action for removal can be taken only by majority vote of all the voting members of the district magistrates commission.
  - (3) **Content of notice.**
    - (A) Magistrate judge notice. The notice must provide that a purpose of the meeting is to consider the magistrate judge's removal under Idaho Code §1-2207, and that the magistrate judge may attend those parts of the meeting as permitted by the magistrates commission.
    - (B) Magistrates commission notice. Notice to the members of the magistrates commission must:
      - (i) inform the member that a purpose of the meeting is to consider the removal of the magistrate judge; and
      - (ii) that the magistrate judge can only be removed by a majority vote of the voting members of the magistrates commission.
  - (4) **Procedure.** The magistrates commission may permit the magistrate judge to testify and produce evidence. Procedural conduct of the meeting shall ~~must~~ be determined by a majority vote of the voting members present at the removal hearing.
- (f) **Confidentiality, records.**
- (1) All Proceedings for the removal of a magistrate judge shall ~~must~~ be closed to the public and kept confidential.
  - (2) ~~The records of any~~ Records from removal proceeding are confidential and exempt from public access disclosure as provided in ~~Rule 32(d), I.C.A.R.~~ Idaho Court Administrative Rule 32(d).
- (g) **Subpoena power.** There shall be no subpoena power available for proceedings under this rule. Subpoenas cannot be used for proceedings under this rule.

(h) **Order of removal.**

- (1) In general. If ~~a the district~~ magistrates commission ~~determines that the~~ magistrate ~~should be removed~~ decides to remove a magistrate judge, it must:
- (A) shall issue a written order of removal, signed by the chairman of the magistrates commission, that provides the termination is effective immediately;
- (B) ~~and shall have the order and shall have the order~~ personally served on the magistrate judge or ~~mailed to the magistrate sent~~ by certified mail at ~~to the~~ magistrate's ~~judge's~~ judicial chambers or home address; ~~Such order shall provide that the date of termination is effective immediately and~~
- (C) ~~The order shall be filed the order~~ with the clerk of the district court.
- (2) The administrative judge ADJ shall must cause a copy to be have the order mailed to the Administrative Office of the Courts.

(i) **Removal for cause.** ~~Nothing contained in this rule shall be deemed to~~ This rule does not prevent limit the authority of the Judicial Council or and the Idaho Supreme Court to take action to from removing a magistrate judge for cause pursuant to Section under Idaho Code § 1-2103A, Idaho Code.

3. That Rule 3 be amended as follows:

**Idaho Court Administrative Rule 3. Discipline or and Removal of a Magistrates Judge.**

The Idaho Supreme Court may discipline or ~~remove~~ of a magistrate judge at shall be ~~done by the Supreme Court on~~ the recommendation of the Judicial Council ~~pursuant to~~ under Idaho Code § Section 1-2103A, Idaho Code.

4. That Rule 4 be amended as follows:

**Idaho Court Administrative Rule 4. Pro Tempore Trial Judges By Agreement.**

(a) **Judge tempore requirements.** ~~Pursuant to Section 12 of Article 5 of the Idaho Constitution pro se parties, or attorneys of record with written approval of their clients, may agree in writing to have a A civil action involving a controversy between private parties pending and at issue in the district court, or magistrates division of the district court, and triable to the court tried by may be tried to a judge pro tempore designated by them as a trial judge. The authority for a judge tempore is at Idaho Const. art. 5, § 12. A judge pro tempore must:~~

- (1) be a member of the Idaho State Bar in good standing ~~and~~;
- (2) meet the other constitutional and statutory qualifications for a district judge or lawyer magistrate judge; and
- (3) be agreed to in writing by the parties or their attorneys of record.

(b) **Administrative District Judge discretion.** The administrative district judge (ADJ) of a judicial district has the discretion to approve a judge pro tempore. The agreement to retain a judge pro tempore must shall be presented to the administrative district judge ADJ of the judicial district for approval.

- (1) ~~Unless the administrative judge determines, in the judge's discretion, that the agreement should not be approved the administrative district judge shall~~ If the ADJ agrees to the appointment, they will appoint the person designated in the agreement to become a judge pro tempore to hear and determine all contested matters in the ~~designated~~ case as a trial judge ~~, which.~~ The appointment shall become is effective upon the execution and filing of the oath required under by Idaho Code § I.C. § 59-401. The agreement, order, and oath ~~shall must~~ be filed in the action. ~~The action shall thereafter be assigned to the judge pro tempore who shall preside over further proceedings in the action as a trial judge.~~
- (2) ~~If the administrative district judge ADJ declines to approve the agreement, the judge shall they must enter an order to that effect, stating the reasons for declining to approve the agreement. their decision.~~

(c) **Power Authority of Judge Pro Tempore.** ~~In conducting proceedings in the designated action, a A judge pro tempore within the limits of the cause shall have all of has the powers and duties of a district judge or magistrate judge while presiding over an action as a trial judge. Provided, that But a judge pro tempore shall does not have the power authority to hear appeals or to exercise any of the inherent powers of the court. This includesing specifically the power to sanction for contempt or and mandamus, the conduct of non-parties; all such m~~ Matters involving the exercise of the inherent powers of the court shall must be referred to the administrative district judge ADJ.

(d) **Hearings and Trials.**

- (1) **Conduct.** ~~All proceedings shall be conducted by the judge pro tempore in the manner prescribed The judge pro tempore must conduct hearings and trials as required by the statutes and rules governing court proceedings, in the district court and the magistrates division of the district court;~~
- (2) **Location.** A hearing or trial may be conducted at a place other than a regular court room except that upon written stipulation agreement of the parties and approval of the judge pro tempore, a hearing or trial may be conducted at a place other than in a regular courtroom. The place of hearing or trial shall be provided by the parties and at their expense. of the parties.

(e) **Records and Files.** The judge pro tempore ~~shall have the responsibility of~~ must maintaining the case file and records in the same manner as ~~is done in the~~ district court, ~~and the magistrates division of the district court.~~ The judge pro tempore ~~shall~~ must file all papers ~~in accordance with Rule 5(e) of the~~ as required by Idaho Rules of Civil Procedure 5(e). At the conclusion of the ~~proceeding~~ action the judge pro tempore ~~shall~~ must deposit all records and files in the ~~ease~~ action with the court clerk, ~~of the district court or magistrates division of the district court.~~ In case of appeal, If an action is appealed, the judge pro tempore ~~shall~~ must settle the record

(f) **Record of Proceedings.** ~~In accordance with Idaho Code section 1-1103, If the parties may stipulate agree in writing with the approval of the~~ and the judge pro tempore ~~approves, they may~~ to waive the reporting or recording of any part of the proceedings or testimony as permitted under Idaho Code § 1-1103. If the parties desire a record ~~to be made, the parties shall~~ they must arrange provide the means and bear the expense of making the record and pay for it.

(g) **Reassignment of Case.** ~~Upon written request of the parties or of the judge pro tempore, or upon the death or disability of the judge pro tempore, the administrative district judge shall reassign the action to a district judge or a lawyer magistrate. A judge pro tempore may be removed by the administrative district judge ADJ for the same cause that a district judge or magistrate judge may be removed. The ADJ must reassign the action to a district judge or magistrate judge:~~

- (1) on written request of the parties;
- (2) on written request of the judge tempore; or
- (3) on the death or disability of the judge pro tempore.

(h) **Compensation.** ~~The judge pro tempore shall receive such compensation as is agreed upon by the parties and the judge pro tempore, and such compensation shall be paid by the parties directly to the judge pro tempore. The parties and judge pro tempore must enter into a written agreement which provides for the compensation to be paid to the judge pro tempore. The agreement between the parties, as set forth in paragraph 4(a), shall provide that the judge pro tempore is an independent contractor and not an agent nor employee of the Judicial Department. The agreement must provide:~~

- (1) the judge pro tempore's compensation;
- (2) that the parties will pay the judge pro tempore; or
- (3) that the judge pro tempore is an independent contractor and not a court agent or employee.



(i) **Effect of Orders and Judgments.** All ~~Orders~~ and judgments entered by the judge pro tempore, or pursuant to ~~under to his or her~~ the judge pro tempore's findings of fact and conclusions of law, shall have the same binding effect as a decision or judgment of a district judge or magistrate judge. Orders and judgments of the judge pro tempore are and be subject to enforcement and appeal in the same manner as is an order or judgment of a district judge or magistrate judge.

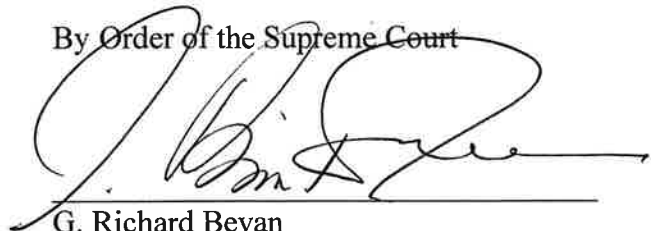
IT IS FURTHER ORDERED, that this order and amendment shall be effective July 1, 2025.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Court Administrative Rules.

IT IS FURTHER ORDERED, that notice of this Order shall be published for three consecutive weeks on the Idaho State Bar's website and in its weekly E-Bulletin, and that as soon as practicable, a summary of the amendment(s) effected by this Order shall be published in one issue of *The Advocate*.

DATED this 30<sup>th</sup> day of June, 2025.

By Order of the Supreme Court



G. Richard Bevan  
Chief Justice, Idaho Supreme Court

ATTEST:



Melanie Gagnepain, Clerk

I, Melanie Gagnepain, Clerk of the Supreme Court/  
Court of Appeals of the State of Idaho, do hereby  
Certify that the above is a true and correct copy of the  
Order entered in the above entitled  
cause and now on record in my office. WITNESS my  
hand and the Seal of this Court 6-30-25  
Melanie Gagnepain, Clerk

By  Deputy