

North Carolina Criminal Law Blog

Rules of Conduct Created for North Carolina Magistrates

December 1, 2021 [Tom Thornburg](#)

<https://nccriminallaw.sog.unc.edu/author/tthornburg/>

Following years of discussion and drafts, a formal [Rules of Conduct for Magistrates](#) https://www.nccourts.gov/assets/documents/publications/NC-Rules-of-Conduct-for-Magistrates-10012021.pdf?x4lkbt_lG41lQDqwMae227V4L7yssNwN was promulgated by the North Carolina Administrative Office of the Courts (AOC) effective October 1, 2021.

Statutory Authorization

In June, [Session Law 2021-47](#)

<https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S255v7.pdf> Section 13.(a) authorized the AOC to prescribe rules of conduct for all magistrates via a new G.S. 7A-171.3. It said that the rules of conduct shall include rules governing standards of professional conduct and timeliness, required duties and responsibilities, methods for ethical decision making, and any other topic deemed relevant by the AOC.

History

Historically, magistrates have been subject to the **North Carolina Code of Judicial Conduct** <<https://www.nccourts.gov/assets/inline-files/North-Carolina-Code-of-Judicial-Conduct-Codified-12-February-2020.pdf?u7FrRKrvuqPnPM CpZSQ.M19iDBvuV2OS>> as officers of the court in theory, though not everyone has agreed that the Code was directly applicable to magistrates. Confusing the issue further, the NC Judicial Standards Commission **is not authorized** <<https://www.nccourts.gov/commissions/judicial-standards-commission/about-the-judicial-standards-commission>> to hear complaints about magistrates or clerks of court, among others. So, while the Judicial Standards Commission oversees ethical issues for North Carolina trial and appellate judges, no similar body has been in place for magistrates.

That is not to imply that magistrates have not had an ethical code. Knowledgeable experts, including my SOG faculty colleague Dona Lewandowski and Joan Brannon before her, have taught and advised magistrates and other court officials for decades that magistrates should be guided by the Code of Judicial Conduct where it is relevant to their work.

Statutory Framework for Suspension or Removal

G.S. 7A-173

<https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_7a/GS_7a-173.html> provides that the grounds for suspension or removal of a magistrate are the same as for a judge of the General Court of Justice (that is, a trial or appellate judge). That basically meant that a court official examining a magistrate's potential unethical conduct would look to the standards of the Code of Judicial Conduct, and the cases that interpret it, in carrying out suspension or a removal procedure pursuant to that statute.

Importantly, the new Rules of Conduct contain detail about the ability of a chief district court judge to discipline a magistrate beyond the suspension and removal procedures provided by G.S. 7A-173. See the discussion of Rule 7 below for more detail about that.

The New Rules of Conduct

The new Rules contain seven rules along with numerous subsections and Official Commentary. Its preamble states that a violation of the Rules may be deemed conduct prejudicial to the administration of justice that brings the Office of Magistrate into disrepute, or willful misconduct in office, or otherwise grounds for removal proceedings pursuant to G.S. 7A-173. The Rules are a worthwhile read for magistrates and anyone who works closely with them.

Broadly, **the Rules** <https://www.nccourts.gov/assets/documents/publications/NC-Rules-of-Conduct-for-Magistrates-10012021.pdf?x4lkbt_lG41lQDqwMae227V4L7yssNwN> track principles in the NC Code of Judicial Conduct and address the following topics:

Rule 1: upholding integrity of the Office of Magistrate

Rule 2: avoiding impropriety in all activities

Rule 3: performing duties impartially and diligently

Rule 4: participating in cultural or historical activities, or activities concerning the legal, economic, educational, or governmental system, or the administration of justice

Rule 5: regulating extra-judicial activities to ensure that they do not interfere with official duties

Rule 6: engaging in political activity consistent with the magistrate's status as a public official

Rule 7: respecting the chief district court judge's administrative supervision and authority over magistrates. Rule 7 details specific acts that may subject a magistrate to discipline. Further, the rule provides several forms of discipline that a chief district court judge may use, from counseling, to recommending or directing training, to a written warning or reprimand, to the proceedings of G.S. 7A-173.

North Carolina has about 670 magistrates. They are on duty or on call 24-hours a day every day of the year in every county. They are officers of the district court. Like other court officials, they are state employees. Magistrates are a key actor in both criminal and civil matters in the North Carolina court system. They issue search warrants and the various forms of criminal process, like arrest warrants. Additionally, magistrates conduct initial appearance and assess and set pretrial release conditions for people who are arrested. They can accept guilty pleas and admissions of responsibility for some infractions and misdemeanors. In the civil arena, magistrates are responsible for hearing small claims cases, including eviction matters. Magistrates are the only North Carolina judicial official **authorized to conduct weddings**

<https://www.nccourts.gov/help-topics/divorce-and-marriage/marriage>. Learn more about magistrates **here**

https://www.nccourts.gov/assets/documents/publications/North-Carolina-Magistrate-Fact-Sheet_2019-20.pdf?7qzS4CARWtMRCCtefKwGhkxTxoS6.TJ6.



Knapp-Sanders Building
Campus Box 3330, UNC Chapel Hill
Chapel Hill, NC 27599-3330
T: (919) 966-5381 | F: (919) 962-0654

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