

Rule 34. Temporary Suspension

(a) Purpose. Temporary suspension is appropriate when there is a substantial threat of serious harm to the public, to the administration of justice, or to the integrity of the judiciary if a Judge continues to perform judicial duties pending the outcome of informal or formal proceedings. Temporary suspension is not a form of judicial discipline.

(b) Order to Show Cause.

(1) *On the Commission's Request.* The Commission, by its chair, the executive director, or special counsel, may request the Supreme Court to order the temporary suspension of a Judge, with pay, pending the resolution of informal or formal proceedings. The Commission's request shall include a statement of the reasons in support of the temporary suspension, which may include the Judge's failure to cooperate with the Commission. The Supreme Court may request additional information from the Commission. If the Supreme Court finds that it has been sufficiently advised and that a temporary suspension is appropriate, the Supreme Court shall issue an order (1) temporarily suspending the Judge; (2) directing the Judge to show cause in writing, within 21 days of the order's service, why the Judge should not continue to be temporarily suspended from all judicial duties pending the outcome of informal or formal proceedings; (3) directing the State Court Administrator to appoint at random an Adjudicative Board Panel to consider the Commission's request to temporarily suspend the Judge; and (4) directing the Commission to serve the order on the State Court Administrator and on the Judge by mail and by email at the Judge's judicial email address or at another email address that the Judge or the Judge's counsel directs.

(2) *On the Supreme Court's Own Motion.* On its own motion, the Supreme Court may find that a Judge's temporary suspension is appropriate. In that event, the Supreme Court shall issue an order in the same form as an order issued under subsection (b)(1) of this Rule.

(c) Response. The Judge shall respond to the show cause order within 21 days and shall file the response with the Adjudicative Board Panel in the manner that the Adjudicative Board Panel designates. In the response, the Judge shall either request a hearing, request that the Adjudicative Board Panel decide the matter on the basis of the Commission's written request and the Judge's written response, or state that the Judge does not contest the suspension. If the Judge does not respond to the order to show cause, the Judge will continue to be temporarily suspended from judicial duties pending the outcome of informal or formal proceedings.

(d) Hearing. If the Judge requests a hearing, the Adjudicative Board Panel shall conduct an evidentiary hearing on the order to show cause within 28 days of the Judge's response, or such later date as the Adjudicative Board Panel for good cause orders. At the evidentiary hearing, special counsel has the burden of proof to establish reasonable cause to believe, based on specific and articulable facts, that the Judge poses a substantial threat of serious

harm to the public, to the administration of justice, or to the integrity of the judiciary if the Judge continues to perform judicial duties pending the outcome of informal or formal proceedings. At the evidentiary hearing, the parties may call witnesses, introduce evidence, and present arguments.

(e) Findings and Conclusions; Exceptions; and Decision. Within seven days following the conclusion of the hearing or, if no hearing was held, within seven days following the submission of the Judge's written response, the Adjudicative Board Panel shall file with the Supreme Court its written findings of fact and conclusions of law, which shall state the factual basis for the findings and the reasons for the Adjudicative Board Panel's conclusions. Within the seven days thereafter, the parties may file exceptions with the Supreme Court regarding the Adjudicative Board Panel's findings and conclusions. Upon its consideration of the findings, conclusions, and exceptions, the Supreme Court may affirm, modify, or terminate the Judge's temporary suspension.

(f) Further Orders. The Supreme Court will have continuing jurisdiction concerning the Judge's temporary suspension.

(g) Voluntary Temporary Suspension. The Commission and the Judge may stipulate to the Judge's temporary suspension. In that case, the Commission and the Judge shall file with the Supreme Court a written consent to the Judge's temporary suspension, which shall state the reasons for the voluntary temporary suspension, and the Supreme Court will temporarily suspend the Judge pending the resolution of informal or formal proceedings.

(h) Public Access. An order by the Supreme Court for temporary suspension shall become public upon its issuance. All other records of the Supreme Court, the Adjudicative Board Panel, and the parties relating to the temporary suspension shall remain confidential.

(i) Same Panel. If the Commission initiates a formal proceeding concerning the Judge while the Judge is temporarily suspended, the Adjudicative Board Panel appointed to consider the request for temporary suspension shall also preside over the formal proceeding.

(j) Admissibility. Records relating to the temporary suspension are not admissible in a formal proceeding, except that testimony presented in a hearing under section (d) of this Rule may be offered in a formal proceeding when permitted by the Colorado Rules of Evidence.