I.C.A.R. 2. Removal of Magistrates Without Cause

Idaho Court Administrative Rule 2. Removal of Magistrates Without Cause.

(a) Statement of intent. This rule is promulgated by the Idaho Supreme Court pursuant to the authority of section 1-2207(3), Idaho Code, to govern the proceedings for the removal of a magistrate by the magistrates commission during the first eighteen (18) months after the magistrate takes office following appointment. Proceedings for the removal of a magistrate pursuant to this rule are administrative personnel proceedings and shall not be deemed adversary or judicial in nature. Formal rules of evidence shall not apply to any proceeding under this rule. No provision of this rule shall be construed to limit 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.

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

(d) Personnel review meeting. Prior to holding a removal hearing, the district magistrates commission shall hold a personnel review meeting. The purpose of the meeting is to determine if a removal hearing should be held. The personnel review meeting may be called by the district administrative judge, or the judge's designee or by three members of the district magistrates commission upon written application to the administrative judge. Reasonable notice shall be given to all district magistrates commission members but need not be given to the magistrate. The magistrates commission shall set a removal hearing upon demand of three voting members of the commission.

(e) Removal 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. Notice to the magistrate shall be by personal service or in such manner as prescribed by the administrative judge. Proof of service shall be lodged with the administrative judge. 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. Notice to the members of the district magistrates commission shall be given 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. The commission may permit the magistrate to testify and produce evidence. Procedural conduct of the meeting shall be determined by a majority vote of the voting members present.

(f) Confidentiality, records. All proceedings for the removal of a magistrate shall be closed to the

public and confidential. The records of any removal proceeding are confidential and exempt from public access as provided in Rule 32(d), I.C.A.R.

(g) Subpoena power. There shall be no subpoena power available for proceedings under this rule.

(h) Order of removal. If the district magistrates commission determines that the magistrate should be removed, it shall issue a written order of removal, signed by the chairman of the commission, and shall have the order personally served on the magistrate or mailed to the magistrate by certified mail at the magistrate's judicial chambers or home address. Such order shall provide that the date of termination is effective immediately. The order shall be filed with the clerk of the district court. The administrative judge shall cause a copy to be mailed to the Administrative Office of the Courts.

(i) Removal for cause. Nothing contained in this rule shall be deemed to limit the authority of the Judicial Council and the Supreme Court to take action to remove a magistrate for cause pursuant to Section 1-2103A, Idaho Code.

(Adopted December 27, 1979, effective July 1, 1980; amended May 1, 1990, effective July 1, 1990; amended June 14, 1999, effective September 1, 1999.)

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