

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on the 25th day of February, in the year of our Lord two thousand and fifteen:

present,

<u>HON. RALPH D. GANTS</u>)	Chief Justice
)	
<u>HON. FRANCIS X. SPINA</u>)	
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)	
<u>HON. ROBERT J. CORDY</u>)	Justices
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<u>HON. MARGOT BOTSFORD</u>)	
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<u>HON. FERNANDE R.V. DUFFLY</u>)	
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<u>HON. BARBARA A. LENK</u>)	
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<u>HON. GERALDINE S. HINES</u>)	

ORDERED: That Chapter Three of the Rules of The Supreme Judicial Court of Massachusetts is hereby amended as follows:

Rule 3:13

By striking the current Rule 3:13 and inserting in lieu thereof the new Rule 3:13, attached hereto.

The amendments accomplished by this order shall take effect on March 23, 2015.

ORDERED:

<u>RALPH D. GANTS</u>)	Chief Justice
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<u>FRANCIS X. SPINA</u>)	
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<u>ROBERT J. CORDY</u>)	Justices
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<u>MARGOT BOTSFORD</u>)	
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<u>FERNANDE R.V. DUFFLY</u>)	
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<u>BARBARA A. LENK</u>)	
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<u>GERALDINE S. HINES</u>)	

S.J.C. Rule 3:13

(1) Complaints against a court Clerk, Clerk Magistrate, Register or Recorder (hereinafter Clerk), and against an Assistant Clerk, Assistant Clerk-Magistrate, Assistant Register, Deputy Recorder, Judicial Case Manager, and Assistant Judicial Case Manager (hereinafter Assistant Clerk), involving the following actions shall be addressed as set forth in this rule: (a) conviction of a crime, (b) wilful misconduct in office, (c) wilful misconduct that, although not related to duties as a Clerk or Assistant Clerk, brings the office of Clerk or Assistant Clerk into disrepute, (d) conduct prejudicial to the administration of justice or conduct unbecoming a Clerk or Assistant Clerk, whether conduct in office or outside of duties of the office, that brings the office into disrepute, or (e) any conduct that constitutes a violation of S.J.C. Rule 3:12.

(2) Complaints involving trial court Clerks shall be referred to their respective Chief Justice who shall investigate and impose discipline as appropriate, except as provided in paragraphs (4)(B) and (C).

(3) Complaints involving trial court Assistant Clerks shall be governed by the provisions of the Trial Court Personnel Policies and Procedures Manual. Complaints involving appellate court Clerks and Assistant Clerks shall be addressed as directed by the Justices of the appropriate court.

(4) There shall be a Trial Court Committee on Professional Responsibility for Clerks of the Courts (hereinafter Committee) with the following authority:

(A) Upon appeal by a Clerk, the Committee shall review discipline of a Clerk imposed by a trial court Chief Justice that includes a suspension without pay of any length or a recommendation for removal of a Clerk. Discipline imposed on a Clerk by a trial court Chief Justice that does not include any suspension without pay or recommendation for removal may not be appealed to the Committee.

(B) Upon referral from a trial court Chief Justice, the Committee shall address a complaint of misconduct against a Clerk in the first instance. Such referral by the Chief Justice shall be made in accordance with guidelines established by the Chief Justice of the Trial Court and the Court Administrator in consultation with representatives of the Clerks. Upon such referral, the Committee may receive information, conduct investigations and hearings, dismiss, informally resolve, issue formal charges, impose any form of discipline except for removal, or otherwise dispose of complaints, and make recommendations to the Supreme Judicial Court concerning removal of a Clerk.

(C) Upon referral from a trial court Chief Justice, the Committee shall investigate information involving allegations that a Clerk is unable adequately to perform as a Clerk because of a mental or physical disability. Upon such referral, the Committee may receive information, investigate, and take appropriate action relative to any mental or physical disability of a Clerk.

(5) The Committee shall consist of three members. The Chief Justice of the Trial Court and the Court Administrator shall be permanent members of the Committee unless recused or disqualified in a particular matter pursuant to the Committee's rules. The third member of the Committee shall be selected for each proceeding in accordance with the Committee's rules.

(6) The rules of the Committee shall be as established by the Supreme Judicial Court.