

that such disclosure is justified by special circumstances and is not prohibited by 28 U.S.C. § 372(c)(14).

(i) **Disclosure of Identity by Judge or Magistrate Judge Complained About.** Nothing in this rule will preclude the judge or magistrate judge complained about from acknowledging that such judge is the judge or magistrate judge referred to in documents made public pursuant to rule 17.

#### RULE 17. PUBLIC AVAILABILITY OF DECISIONS

(a) **General Rule.** A docket-sheet record of orders of the chief judge and the judicial council and the texts of any memoranda supporting such orders and any dissenting opinions or separate statements by members of the judicial council will be made public when final action on the complaint has been taken and is no longer subject to review.

- (1) If the complaint is finally disposed of without appointment of a special committee, or if it is disposed of by council order dismissing the complaint for reasons other than mootness, or because intervening events have made action on the complaint unnecessary, the publicly available materials will not disclose the name of the judge or magistrate judge complained about without such judge's consent.
- (2) If the complaint is finally disposed of by censure or reprimand by means of private communication, the publicly available materials will not disclose either the name of the judge or magistrate judge complained about or the text of the reprimand.
- (3) If the complaint is finally disposed of by any other action taken pursuant to rule 14(d) or (f) except dismissal because intervening events have made action on the complaint unnecessary, the text of the dispositive order will be included in the materials made public, and the name of the judge or magistrate judge will be disclosed.
- (4) If the complaint is dismissed as moot at any time after the appointment of a special committee, the judicial council will determine whether the name of the judge or magistrate judge is to be disclosed.

- (5) The name of the complainant will not be disclosed in materials made public under this rule unless the chief judge orders such disclosure.

(b) **Manner of Making Public.** The records referred to in paragraph (a) will be made public by placing them in a publicly accessible file in the office of the clerk of the court of appeals at the United States Courthouse, Foley Square, New York, New York 10007. The clerk will send copies of the publicly available materials to the Federal Judicial Center, 1520 H Street, N.W., Washington, D.C. 20005, where such materials will also be available for public inspection. In cases in which memoranda appear to have precedential value, the chief judge may cause them to be published.

(c) **Decisions of Judicial Conference Standing Committee.** To the extent consistent with the policy of the Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders, opinions of that committee about complaints arising from this circuit will also be made available to the public in the office of the clerk of the court of appeals.

(d) **Special Rule for Decisions of Judicial Council.** When the judicial council has taken final action on the basis of a report of a special committee, and no petition for review has been filed with the Judicial Conference within thirty days of the council's action, the materials referred to in paragraph (a) will be made public in accordance with this rule as if there were no further right of review.

(e) **Complaints Referred to the Judicial Conference of the United States.** If a complaint is referred to the Judicial Conference of the United States pursuant to rule 14(e), materials relating to the complaint will be made public only as may be ordered by the Judicial Conference.

#### **RULE 18. DISQUALIFICATION**

(a) **Complainant.** If the complaint is filed by a judge, that judge will be disqualified from participation in any consideration of the complaint except to the extent that these rules provide for participation by a complainant. If the complaint is filed by a judge, or identified by the chief judge pursuant to 28 U.S.C. § 372(c)(1), that judge will be disqualified from participation in any consideration of the complaint except to the extent that these rules provide for participation by a complainant.

(b) **Judge Complained About.** A judge whose conduct is

**RULE 22. EFFECTIVE DATE**

These rules apply to complaints filed on or after April 1, 1994. The handling of complaints filed before that date will be governed by the rules previously in effect.

**RULE 23. ADVISORY COMMITTEE**

The advisory committee appointed by the Court of Appeals for the Second Circuit for the study of rules of practice and internal operating procedures shall also constitute the advisory committee for the study of these rules, as provided by 28 U.S.C. § 2077(b), and shall make any appropriate recommendations to the circuit judicial council concerning these rules.