

**PROPOSED AMENDMENTS TO RULE V OF THE SUPREME COURT
RULES FOR THE GOVERNMENT OF THE BAR OF OHIO**

RULE V. DISCIPLINARY PROCEDURE

Section 1. Creation of Board of Commissioners on Grievances and Discipline Professional Conduct of the Supreme Court.

(A) **Composition.** There shall be a Board of ~~Commissioners on Grievances and Discipline~~ Professional Conduct of the Supreme Court consisting of twenty-eight ~~members~~ commissioners as follows: seventeen attorneys admitted to the practice of law in Ohio, seven active or voluntarily retired judges of the state of Ohio or judges retired pursuant to Article IV, Section 6 of the Ohio Constitution, and four nonattorney ~~members~~ commissioners.

(B) **Distribution.** The attorney ~~members of the Board~~ commissioners shall be appointed from Ohio appellate districts as follows: First District, two ~~members~~ commissioners; Second District, one ~~member~~ commissioner; Third District, one ~~member~~ commissioner; Fourth District, one ~~member~~ commissioner; Fifth District, one ~~member~~ commissioner; Sixth District, two ~~members~~ commissioners; Seventh District, one ~~member~~ commissioner; Eighth District, three ~~members~~ commissioners; Ninth District, one ~~member~~ commissioner; Tenth District, two ~~members~~ commissioners; Eleventh District, one ~~member~~ commissioner; and Twelfth District, one ~~member~~ commissioner. The active and retired judge ~~members~~ commissioners shall be ~~members~~ appointed at-large ~~appointed~~ from separate appellate districts, and the nonattorney ~~members of the Board~~ commissioners shall be ~~members~~ appointed at-large ~~appointed~~ from separate appellate districts.

(C) **Term of Office.** The term of office of each ~~member~~ commissioner of the Board shall be three years, beginning on the first day of January next following the ~~member's~~ commissioner's appointment. Any ~~member of the Board~~ commissioner whose term has expired and who has an uncompleted assignment as a member of a panel may continue to serve for the purpose of the assignment until it is concluded before the Board. The successor ~~member~~ commissioner shall take no part in the proceedings of the Board concerning the assignment.

(D) **Appointments.** The Chief Justice and Justices of the Supreme Court each shall appoint ~~members of the Board~~ commissioners. Appointments to terms commencing the first day of January of any year shall be made prior to the first day of December of the preceding year. Vacancies for any cause shall be filled for the unexpired term by the justice who appointed the person causing the vacancy or by the successor of that justice. A ~~member~~ commissioner appointed to a term of fewer than three years may be reappointed to not more than three, three-year terms. No person may be appointed to more than three, three-year terms on the Board. Three-year terms served prior to April 1, 2008 shall be included when determining whether a person is eligible for appointment or reappointment to the Board.

(E) **Chair and Vice-chair.** The Board shall each year elect a judge or attorney ~~member~~ commissioner as chair and vice-chair. The chair and vice-chair shall serve in that

43 capacity for a maximum of two years. The chair, and vice-chair, and Secretary each may
44 execute journal entries on behalf of the Board and of panels of the Board. The chair and vice-
45 chair shall serve in that capacity for no longer than two years. In the absence or incapacity of the
46 chair, the vice-chair shall perform the duties of the chair.

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48 (F) **Meetings.** The Board shall meet in Columbus at least six times each year. The
49 chair, or vice-chair, or Secretary may call additional meetings of the Board when necessary.

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51 (G) **Campaign Contributions.** ~~Members~~ Commissioners and employees of the
52 Board, the Disciplinary Counsel, or employees of the Office of Disciplinary Counsel shall not
53 make any contribution to, or for the benefit of, or take part in the campaign of, or campaign for
54 or against, any justice, judge, or judicial candidate in this state. A ~~Board member~~ commissioner
55 who is a candidate for election or reelection to a judicial office ~~or for reelection to a judicial~~
56 ~~office~~ may contribute to, may make a contribution for the benefit of, or take part in his or her
57 own campaign.

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59 **Section 2. Jurisdiction and Powers of the Board.**

60
61 (A) **Exclusive Jurisdiction.** ~~All~~ Except as otherwise expressly provided in rules
62 adopted by the Supreme Court, all grievances involving alleged misconduct by ~~justices, judges,~~
63 judicial officers or attorneys, ~~all~~ proceedings with regard to the alleged mental illness or
64 substance use disorder of a judicial officer or attorney, ~~all~~ proceedings for the discipline of
65 ~~justices, judges, judicial officers,~~ attorneys, persons under suspension, or on probation, ~~or~~
66 disbarred from the practice of law, and ~~all~~ proceedings for the reinstatement ~~as an attorney to the~~
67 practice of law shall be brought, conducted, and disposed of in accordance with the provisions of
68 this rule. The Board also shall have exclusive jurisdiction to certify, recertify, and decertify
69 grievance committees in accordance with Section 5 of this rule.

70
71 (B) **Powers.** The Board shall receive evidence, preserve the record, make findings,
72 and submit recommendations to the Supreme Court as follows:

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74 (1) Concerning complaints of misconduct that are alleged to have been committed by
75 a ~~judge~~ judicial officer, an attorney, a person under suspension from the practice of law, or a
76 person on probation;

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78 (2) Concerning the mental illness or substance use disorder of any ~~judge~~ judicial
79 officer or attorney;

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81 (3) Relating to petitions for reinstatement as an attorney;

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83 (4) Upon reference by the Supreme Court of conduct by a ~~judge~~ judicial officer or an
84 attorney affecting any proceeding under this rule, where the acts allegedly constitute a contempt
85 of the Supreme Court or a breach of these rules but did not take place in the presence of the
86 Supreme Court or a member of the Supreme Court, whether by willful disobedience of any order
87 or judgment of the Supreme Court or the Board, by interference with any officer of the Supreme
88 Court in the prosecution of any duty, or otherwise. This rule shall not limit or affect the plenary

89 power of the Supreme Court to impose punishment for either contempt or breach of these rules
90 committed in its presence, or the plenary power of any other court for contempt committed in its
91 presence.

92
93 **(C) Advisory Opinions.** The Board may issue ~~informal~~, nonbinding advisory ~~opinion~~
94 ~~letters~~ opinions in response to prospective or hypothetical questions directed to the Board
95 regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the
96 Supreme Court Rules for the Government of the Judiciary of Ohio, the Ohio Rules of
97 Professional Conduct, the Code of Judicial Conduct, or the Attorney's Oath of Office. ~~Subject to~~
98 ~~the approval of the Supreme Court, the Board shall adopt regulations for the issuance of advisory~~
99 ~~opinions.~~

100
101 **(D) Regulations.** The Board shall have authority to adopt regulations consistent with
102 this rule. Proposed regulations and amendments to existing regulations shall be published for
103 comment prior to adoption in a manner consistent with rule amendments proposed by the
104 Supreme Court, and adopted regulations shall be published in the same manner as rules adopted
105 by the Supreme Court. The regulations shall include the following provisions:

106
107 (1) Procedures for regularly reviewing the performance of certified grievance
108 committees, identifying certified grievance committees that are not in compliance with the
109 standards set forth in this rule, and for decertifying a certified grievance committee that fails to
110 improve its performance after being notified of noncompliance;

111
112 (2) Time guidelines for the processing of disciplinary cases pending before the Board
113 and panels of the Board;

114
115 (3) Procedures for the issuance of advisory opinions.

116
117 **Section 3. Director of the Board.**

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119 **(A) Director.** The Board shall appoint a director of the Board. The director shall be
120 an attorney admitted to the practice of law in Ohio, shall be appointed by a majority of the
121 Board, and shall serve at the pleasure of the Board. The position of director shall be a fulltime
122 position. Neither the director nor any other employee of the Board shall be employed by any
123 court.

124
125 **(B) Responsibilities.** The director shall have the following responsibilities:

126
127 (1) Serve as the chief legal, administrative, and fiscal officer of the Board;

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129 (2) Schedule all meetings of the Board and its committees and all hearings of Board
130 panels;

131
132 (3) Maintain a docket of each complaint and of all proceedings on each complaint,
133 which shall be retained permanently as a part of the records of the Board;

135 (4) Execute entries on behalf of the Board and its hearing panels and execute entries
136 for extensions of time where appropriate;

137
138 (5) Employ such personnel as are reasonably necessary to discharge the
139 responsibilities set forth in this rule and shall establish the salaries of personnel, subject to
140 approval by the Board;

141
142 (6) Maintain the records for the receipt and expenditure of money, and prepare
143 financial reports and budgets as required by the Supreme Court Rules for the Government of the
144 Bar of Ohio and the Supreme Court Rules for the Government of the Judiciary of Ohio;

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146 (7) File with the Supreme Court annually a report of the activities and expenses of the
147 Board;

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149 (8) Take all necessary steps to see that office facilities, furnishings, stationery,
150 equipment, and office supplies are available as needed;

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152 (9) Assist the Board in preparing advisory opinions pursuant to Section 2(C) of this
153 rule;

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155 (10) Take any other action consistent with the director's position as chief legal,
156 administrative, and fiscal officer that is not otherwise inconsistent with the Supreme Court Rules
157 for the Government of the Bar of Ohio and the Supreme Court Rules for the Government of the
158 Judiciary of Ohio.

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160 **Section 3 ~~4~~. Secretary; Disciplinary Counsel; ~~Certified Grievance Committees;~~**
161 **~~Administration.~~**

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163 ~~(A) **Secretary.** There shall be a Secretary of the Board, which shall be a full time~~
164 ~~position. The Secretary shall be an attorney admitted to the practice of law in Ohio, shall be~~
165 ~~appointed by a majority of the Board, and shall serve at the pleasure of the Board.~~

166
167 ~~(1) **Responsibilities.** The Secretary shall have the overall scheduling, administrative,~~
168 ~~and fiscal responsibility of the Board. The Secretary shall schedule all hearings for the Board~~
169 ~~and panels of the Board; keep a docket of each complaint and of all proceedings on each~~
170 ~~complaint, which shall be retained permanently as a part of the records of the Board; execute~~
171 ~~journal entries for extensions of time where appropriate; maintain the records for the receipt and~~
172 ~~expenditure of money; prepare financial reports and budgets as required by the Supreme Court~~
173 ~~Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of~~
174 ~~the Judiciary of Ohio, and when requested by the Board; assist the Board in preparing opinion~~
175 ~~letters pursuant to Section 2(C) of this rule; take all necessary steps to see that office facilities,~~
176 ~~furnishings, stationery, equipment, and office supplies are available as needed; and any other~~
177 ~~action consistent with the Secretary's position as chief administrative and fiscal officer and not~~
178 ~~otherwise inconsistent with the Supreme Court Rules for the Government of the Bar of Ohio and~~
179 ~~the Supreme Court Rules for the Government of the Judiciary of Ohio.~~

181 (2) **Personnel.** ~~The Secretary shall employ personnel as are reasonably necessary to~~
182 ~~discharge the responsibilities set forth in this rule and shall establish the salaries of personnel,~~
183 ~~subject to approval by the Board. The Secretary and staff shall not be employed by any court.~~
184

185 (3) **Annual Reports.** ~~The Secretary shall file annually with the Supreme Court a~~
186 ~~report of the activities and expenses of the Board.~~
187

188 **(B)(1) Disciplinary Counsel.** With the approval of the Supreme Court, the Board, by
189 majority vote, shall appoint a Disciplinary Counsel who shall perform all of the following duties:
190

191 (a) Investigate allegations of misconduct by ~~judges~~ judicial officers or attorneys and
192 allegations of mental illness or substance use disorder affecting ~~judges~~ judicial officers or
193 attorneys;
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195 (b) Initiate and prosecute complaints as a result of investigations under the provisions
196 of this rule;
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198 (c) Certify bar counsel designated by certified grievance committees pursuant to
199 ~~division (G) of this section~~ Section 6 of this rule;

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201 (d) Comply with the record retention standards set forth in ~~division (D)(1)(e) of this~~
202 ~~section~~ Section 5 of this rule;

203
204 (e) In consultation with the Board, representatives of the certified grievance
205 committees, and others, develop and offer an education curriculum for bar counsel and certified
206 grievance committee members, including an orientation program for newly appointed certified
207 grievance committee members.
208

209 (2) **Appointment; In-term Removal.** The Disciplinary Counsel shall be appointed
210 for a term of four years and shall may be removed in-term only for just cause. Removal In-term
211 removal for just cause shall be instituted by the filing, with the Chief Justice, of a written petition
212 by the chair, acting by authority of a two-thirds vote of the Board. Upon receipt of the petition,
213 the Chief Justice shall cause it to be served on the Disciplinary Counsel for response. Thereafter,
214 the Chief Justice shall schedule a hearing before the Supreme Court, which shall determine
215 whether there is just cause for the removal of the Disciplinary Counsel. The Disciplinary
216 Counsel shall be removed upon the affirmative vote of five or more members of the Supreme
217 Court.
218

219 (3) **Assistants; Staff.** ~~Assistant Disciplinary Counsel and staff in the Office of~~
220 ~~Disciplinary Counsel shall serve at the pleasure of the Disciplinary Counsel.~~ The Disciplinary
221 Counsel may appoint assistants as necessary who shall be attorneys admitted to the practice of
222 law in Ohio and who shall not engage in the private practice of law while serving in that
223 capacity. The Disciplinary Counsel shall appoint staff as required to satisfactorily fulfill the
224 duties of the Office of Disciplinary Counsel. The Disciplinary Counsel shall retain one or more
225 investigators who may be assigned by the Disciplinary Counsel to assist certified grievance

226 committees in the investigation of grievances. Employees of the Office of Disciplinary Counsel
227 shall serve at the pleasure of the Disciplinary Counsel.
228

229 **(4) Compensation; Supplies; Annual Report.** The compensation of the
230 Disciplinary Counsel shall be fixed by the Supreme Court. The compensation of personnel
231 employed by the Disciplinary Counsel, including any Assistant Disciplinary Counsel, shall be
232 fixed by the Disciplinary Counsel with the approval of the Supreme Court. The Supreme Court
233 shall provide office facilities, furnishings, stationery, equipment, and office supplies for the
234 Disciplinary Counsel. The Disciplinary Counsel shall file annually with the Supreme Court and
235 the Board a report of the activities and expenses of the office.
236

237 **(5) Quarterly Report.** By the fifteenth day of January, April, July, and October of
238 each year, the Disciplinary Counsel shall file with the Supreme Court and the Board a report of
239 the number of grievances made to the Disciplinary Counsel during the preceding quarter. The
240 report shall be on a form prescribed by the Board and shall specify the types of grievances filed,
241 including commingling of funds, conviction of crime, failure to file income tax returns, failure to
242 protect the interests of a client, soliciting, embezzlement, conversion, failure to account,
243 excessive fees, mental illness, and any other type of grievance not set forth in this rule. ~~The~~
244 ~~report shall~~ and state the number of grievances filed, the number pending in each category and
245 the number terminated by action of the Disciplinary Counsel during the reporting period.
246

247 **Section 5. Certified Grievance Committees.**

248

249 ~~(C)(1)(A)~~ **Certified Grievance Committees.** A certified grievance committee shall
250 be an organized committee of the Ohio State Bar Association or of one or more local bar
251 associations in Ohio that permits the membership of any attorney practicing within the
252 geographic area served by that association without reference to the attorney's area of practice,
253 special interest, or other criteria. There shall be only one certified grievance committee in each
254 county. Two or more bar associations may establish a joint certified grievance committee in
255 accordance with the procedure outlined in division (C)(4) of this section.
256

257 ~~(2)(B)~~ **Board Certification.** Upon application by a bar association or bar associations
258 and satisfaction of the standards set forth in division (D) of this section, the Board shall may
259 certify a grievance committee to investigate allegations of misconduct by judges judicial officers
260 or attorneys and mental illness or substance use disorder affecting judges judicial officers or
261 attorneys and initiate and prosecute complaints as a result of investigations under the provisions
262 of ~~these rules~~ this rule. A certified grievance committee shall not have the authority to
263 investigate allegations of misconduct against an attorney who is a member of any certified
264 grievance committee in the county and shall refer those allegations to the Secretary director of
265 the Board. A certified grievance committee, other than the certified grievance committee of the
266 Ohio State Bar Association, shall not have the authority to investigate allegations of misconduct
267 against a judge who holds office in the geographic area served by the committee and shall refer
268 those allegations to the Disciplinary Counsel.
269

270 ~~(3) A certified grievance committee may adopt and utilize written procedures for~~
271 ~~handling allegations of client dissatisfaction that do not constitute disciplinary violations, to~~

272 ~~include mediation, office practice monitoring, and other alternative dispute resolution methods.~~
273 ~~Only alternative dispute resolution procedures developed by the Board shall be used by certified~~
274 ~~grievance committees. The procedures shall provide that mediators and facilitators shall not be~~
275 ~~members of or subject to the jurisdiction of the certified grievance committee.~~
276

277 ~~(4)(a)(C)(1)~~ **Joint Committees.** ~~On or after January 1, 2012, a~~ A bar association
278 seeking to establish a grievance committee or the bar associations seeking to establish a joint
279 grievance committee shall file a petition with the Board seeking approval to establish a certified
280 grievance committee or joint certified grievance committee. The petition shall include all of the
281 following:

282
283 ~~(i)(a)~~ (a) The name of the bar association or bar associations seeking to form a grievance
284 committee or joint grievance committee;

285
286 ~~(ii)(b)~~ (b) The names of the chair and other members of the grievance committee, provided
287 the membership of a joint grievance committee shall be in proportion to the number of attorneys
288 employed in the geographic area served by each bar association establishing the joint committee;

289
290 ~~(iii)(c)~~ (c) The name of the lawyer who will serve as bar counsel to the grievance committee;

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292 ~~(iv)(d)~~ (d) In the case of a petition to form a joint grievance committee, a copy of the written
293 agreement between or among the sponsoring bar associations that establishes and governs the
294 operation of the grievance committee;

295
296 ~~(v)(e)~~ (e) Any other information the Board considers necessary to evaluate the petition.
297

298 ~~(b)(2)~~ (2) Upon receipt of a completed petition, the Board promptly shall determine whether
299 the proposed grievance committee satisfies the requirements to establish a grievance committee
300 and the standards set forth in division (D) of this section. Upon determination that the grievance
301 committee satisfies these requirements and standards and upon certification of bar counsel as
302 required by ~~division (G) of this section~~ Section 6 of this rule, the Board shall certify the
303 grievance committee as eligible to accept and investigate grievances and file and prosecute
304 formal complaints.
305

306 **(D)(1) Standards for Certified Grievance Committees.** To obtain and retain
307 certification, each grievance committee shall satisfy all of the following standards:
308

309 (a) *Membership and term limits.* Consist of no fewer than fifteen persons, including
310 a chair who shall not serve as chair for more than two consecutive years. A majority of the
311 members of the certified grievance committee shall consist of attorneys admitted to the practice
312 of law in Ohio, and at least three members or ten percent of the certified grievance committee,
313 whichever is greater, shall consist of persons who are not admitted to the practice of law in Ohio
314 or any other state.
315

316 (i) No later than July 1, 2012, each bar association responsible for appointing
317 members to its certified grievance committee shall adopt and implement procedures that

318 provide for the appointment of certified grievance committee members to specific terms
319 of office, with the length of such terms to be determined by the appointing authority and
320 subject to the ten-year limitation on consecutive service set forth in division (D)(1)(a)(ii)
321 of this section. The expiration dates of the initial terms of office shall be established to
322 ensure that the terms of members expire in different years.
323

324 (ii) Beginning January 1, 2016, no member of a certified grievance committee
325 shall serve or have served on the committee for more than ten consecutive years. A
326 member's tenure on a certified grievance committee prior to January 1, 2016 shall be
327 considered for purposes of determining the member's consecutive service on the certified
328 grievance committee. A member who served on the committee for ten consecutive years
329 may be reappointed to the committee if two or more years have elapsed since the
330 conclusion of the member's prior service.
331

332 (b) *Meetings.* Meet at least once every third month.
333

334 (c) *Office.* Maintain a fulltime, permanent office that is open during regular business
335 hours, has a listed telephone number, and is staffed by a minimum of one fulltime employee to
336 process grievances received by the certified grievance committee and assist with other work of
337 the certified grievance committee. A joint certified grievance committee shall designate a single
338 office within the geographical region served by the joint committee, and the fulltime employee
339 designated to assist the committee may be employed jointly by the bar associations that have
340 established the joint committee.
341

342 (d) *Bar counsel.* Designate bar counsel, who shall be certified by the Disciplinary
343 Counsel pursuant to ~~division (G) of this section~~ Section 6 of this rule, to supervise the receipt and
344 investigation of grievances, the prosecution of formal complaints, and perform such other duties
345 required by this rule. Bar counsel may be a volunteer or be paid for services related to
346 disciplinary activities by or through the certified grievance committee. Bar counsel shall devote
347 the time necessary to performing the duties set forth in this rule, including but not limited to
348 assisting in the intake and investigation of grievances, prosecution of formal complaints,
349 advising the certified grievance committee on matters of professional conduct and disciplinary
350 procedures, and participating in educational activities related to professional conduct and
351 disciplinary procedures. Annually, bar counsel shall be required to complete a minimum of three
352 hours of training offered or approved by Disciplinary Counsel in one or more of the following
353 subject-matter areas:
354

355 (i) Legal ethics;

356 (ii) Judicial ethics;

357 (iii) Execution of the responsibilities outlined in this rule for the review and
358 investigation of grievances and the preparation and prosecution of formal complaints.
359

360 (e) *Files and records.* Maintain files and records of proceedings, in paper or
361 electronic format and in accordance with the following schedule:
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364
365 (i) Records of the proceedings of the certified grievance committee and files
366 related to any matter in which the committee filed a formal complaint shall be retained
367 permanently;

368
369 (ii) Files related to any matter in which the committee initiated an
370 investigation shall be retained for ten years;

371
372 (iii) Files related to any matter that the committee dismissed without
373 investigation shall be retained for two years.

374
375 (f) *Funding.* Be sufficiently funded by the sponsoring bar association or associations
376 to perform the duties imposed by these rules.

377
378 (g) *Written procedures.* Establish and file with the Board written procedures for the
379 processing of grievances that conform to standard regulations promulgated by the Board. The
380 written procedures shall provide a method for notifying potential grievants that they have the
381 option to file a grievance with the Disciplinary Counsel rather than with the certified grievance
382 committee.

383
384 (h) *Quarterly reports.* File quarterly reports similar to those required of the
385 Disciplinary Counsel under Section ~~3(B)(5)~~ 4 of this rule. Each certified grievance committee
386 shall include in the report the results of cases referred to the Board-approved alternative dispute
387 resolution methods along with recommendations for further action, including discontinuance or
388 amendment of alternative dispute resolution procedures.

389
390 (2) **Continuing education.** A certified grievance committee shall encourage each
391 committee member, in the member's first full calendar year of service and each calendar year
392 thereafter, to complete a minimum of one continuing education program or activity offered or
393 approved by Disciplinary Counsel in one or more of the following subject-matter areas:

394 (a) Legal ethics;

395 (b) Judicial ethics;

396
397 (c) Execution of the responsibilities outlined in this rule for the review and
398 investigation of grievances and the preparation and prosecution of formal complaints.

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402 (3) **Annual publication Web Site.** At least once a year in a local newspaper with the
403 largest general circulation in its jurisdiction, the certified grievance committee shall publish an
404 announcement containing the address and telephone number of its office, Internet address, and a
405 brief description of its functions. The announcement shall be published in the legal notice
406 section in a style and size commensurate with legal advertisements. The A certified grievance
407 committee also shall maintain an Internet site that includes the information required in the annual
408 publication address and telephone number of its office and a description of its duties and
409 responsibilities.

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(E)(1) Annual Report and Biennial Recertification. On or before the first day of March, each certified grievance committee shall file with the Board a report of its activity in the preceding calendar year. The annual report shall be submitted on behalf of the certified grievance committee by the committee chair and bar counsel, and shall include all of the following:

(a) A current roster of all members of the certified grievance committee that identifies the committee chair, the nonattorney members of the committee, the tenure of each member’s service on the committee, and the expiration date of each committee member’s term;

(b) Information indicating bar counsel’s compliance with the education requirements set forth in division (D)(1)(d) of this section.

(c) Other information considered necessary by the Board to ascertain the certified grievance committee’s compliance with the standards set forth in division (D) of this section.

(2) Based on the content of the annual reports for the two preceding years and other relevant information that may be available to the Board, the Board, on or before May 1, 2014 and every two years thereafter, shall do one of the following:

(a) Recertify the grievance committee;

(b) Notify the certified grievance committee of its noncompliance with specific minimum standards applicable to the operation of a certified grievance committee, the steps the certified grievance committee is required to take to remedy noncompliance, and the time in which the certified grievance committee must remedy noncompliance;

(c) Initiate decertification proceedings pursuant to division (F) of this section.

(F)(1) Decertification. The Board may decertify a certified grievance committee at the request of one or more of its sponsoring local bar associations or *sua sponte*. If the committee fails to adhere to the standards set forth in division (D) and (E) of this section and regulations adopted by the Board, if bar counsel fails to comply with the education requirements set forth in division (D)(1)(d) of this section, or if the committee substantially fails to perform the obligations set forth in these rules, the ~~Secretary~~ director may issue to the chair of the certified grievance committee and president of the sponsoring bar association an order to show cause why the grievance committee should not be decertified by the Board for the reasons set forth in the order. The Board shall hold a hearing before three commissioners, chosen by lot, who do not reside in the same appellate district where the certified grievance committee is located. If the panel of commissioners recommends decertification, it shall issue findings setting forth all of the following:

(a) The reasons for decertification;

(b) All of the certified grievance committee’s pending matters;

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(c) Any special circumstances by reason of which the committee should not be required to discharge its remaining responsibilities in any or all pending matters.

(2) The Board shall review the report and findings of the panel recommending decertification and, by majority vote, may decertify the committee. In the absence of special circumstances, the Board shall not decertify a certified grievance committee, either at the request of a sponsoring bar association or *sua sponte*, before the committee has discharged to the Board's satisfaction the committee's remaining responsibilities in its then-pending matters.

(G) Alternative Dispute Resolution. A certified grievance committee may adopt and utilize written procedures for handling allegations of client dissatisfaction that do not constitute disciplinary violations, to include mediation, office practice monitoring, and other alternative dispute resolution methods. Only alternative dispute resolution procedures developed by the Board shall be used by certified grievance committees. The procedures shall provide that mediators and facilitators shall not be members of or subject to the jurisdiction of the certified grievance committee.

Section 6. Bar Counsel.

~~(G)(A)~~**(1) Certification of Bar Counsel.** Disciplinary Counsel shall certify bar counsel. With the prior approval of the Board, Disciplinary Counsel shall promulgate and make available to the certified grievance committees and bar counsel the criteria that will be used in certifying. The criteria for certification shall include, but not be limited to, all of the following:

- (a) Legal experience, including substantive areas of practice and trial experience;
- (b) Any experience as a member of a certified grievance committee;
- (c) Experience in reviewing and investigating grievances or prosecuting formal complaints, or both, including but not limited to the approximate number of grievances reviewed and investigated, the number of cases presented to hearing panels of the Board, and the number of disciplinary hearings before the Supreme Court;
- (d) References from at least three persons in the legal community who attest to the applicant's high ethical standards, professionalism, and integrity.

(2) **Decertification.** Disciplinary Counsel may decertify bar counsel for failing to competently and diligently perform the duties set forth in Gov. Bar R. V, failing to comply with the education requirements set forth in ~~division (D)(1)(d) of this section~~ Section 5 of this rule, or for other good cause shown. Before decertifying bar counsel, Disciplinary Counsel shall provide to bar counsel and the chair of the certified grievance committee that employs or retains bar counsel written notice proposing the decertification of bar counsel and shall afford bar counsel a reasonable opportunity to respond to the proposed decertification.

501 (3) **Exemption.** A bar counsel who is certified by Disciplinary Counsel as of
502 December 31, 2011 shall not be subject to the initial certification requirements of division
503 ~~(G)(A)~~(1) of this section but may be decertified pursuant to division ~~(G)(A)~~(2) of this section.
504

505 **Section 7. Funding; Reimbursements to Certified Grievance Committees.**
506

507 ~~(H)(A)~~ **Funding and Budgets.** ~~Funds~~ The Supreme Court shall allocate funds for the
508 operation of the Board and the Disciplinary Counsel and development and distribution of
509 materials describing the disciplinary process ~~shall be provided~~ from the Attorney Services Fund.
510

511 ~~(A)(B)~~ **Budget.** At the request of the administrative director of the Supreme Court, the
512 Board and the Disciplinary Counsel shall prepare and submit a proposed annual **or biennial**
513 budget for approval by the Supreme Court.
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515 ~~(2)(C)~~ **Reimbursement for Expenses.** ~~Certified~~ The Board may reimburse certified
516 grievance committees may be reimbursed from the Attorney Services Fund for expenses incurred
517 by the committees in performing the obligations imposed on them by these rules. **Any**
518 **reimbursements authorized by the Board shall be paid from moneys allocated by the Court for**
519 **that purpose from the Attorney Services Fund.** Reimbursement is not permitted for costs
520 associated with compliance with the standards contained in ~~division (D) of this section~~ Section
521 6(C) of this rule, except for the costs listed in division ~~(H)(C)(2)(b)~~ of this section.
522

523 ~~(a)(1)~~ **Reimbursement of Direct Expenses.** A certified grievance committee may be
524 reimbursed for direct expenses incurred in performing the obligations imposed by this rule.
525 Reimbursement shall be limited to costs for depositions, transcripts, copies of documents,
526 necessary travel expenses for witnesses and volunteer attorneys, witness fees, costs of subpoenas
527 and the service of subpoenas, and compensation of investigators and expert witnesses authorized
528 in advance by the Board. There shall be no reimbursement for the costs of the time of other bar
529 association personnel or attorneys in discharging these obligations. Reimbursement shall be
530 made upon submission to the ~~Secretary~~ director of the Board of proof of expenditures. Upon
531 approval by the Board, reimbursement shall be made from the Attorney Services Fund.
532

533 ~~(b)(2)~~ **Annual Reimbursement of Indirect Expenses.** ~~Certified~~ A certified grievance
534 ~~committees~~ committee may apply to the Board prior to the first day of February each year for
535 partial reimbursement of other expenses necessarily and reasonably incurred during the
536 preceding calendar year in performing ~~their~~ its obligations under these rules. The Board shall
537 establish criteria for determining whether expenses under divisions ~~(H)(2)(b) and (e)~~ (C)(2) and
538 (3) of this section are necessary and reasonable. The Board shall deny reimbursement for any
539 expense for which a certified grievance committee seeks reimbursement on or after the first day
540 of ~~May~~ **March** of the year immediately following the calendar year in which the expense was
541 incurred. Expenses eligible for reimbursement are those specifically relating to professional
542 responsibility enforcement and include all of the following:
543

544 ~~(i)(a)~~ The personnel costs for the portion of an employee's work that is dedicated to this
545 area;
546

547 ~~(ii)~~(b) The costs of bar counsel who is retained pursuant to written agreement with or
548 employed by the certified grievance committee;

549
550 ~~(iii)~~(c) Postal and delivery charges;

551
552 ~~(iv)~~(d) Long distance telephone charges;

553
554 ~~(v)~~(e) Local telephone charges and other appropriate line charges including, but not
555 limited to, per call charges;

556
557 ~~(vi)~~(f) The cost of dedicated telephone lines;

558
559 ~~(vii)~~(g) Subscriptions to professional journals, law books, and other legal research
560 services and materials related to professional responsibility;

561
562 ~~(viii)~~(h) Organizational dues and educational expenses relating to professional
563 responsibility enforcement;

564
565 ~~(ix)~~(i) All costs of defending grievance and disciplinary-related law suits and that
566 portion of professional liability insurance premiums directly attributable to the operation of the
567 committees in performing their obligations under this rule;

568
569 ~~(x)~~(j) The percentage of rent, insurance premiums not reimbursed pursuant to division
570 ~~(H)(2)(b)(ix)~~(C)(2)(i) of this section, supplies and equipment, accounting costs, occupancy,
571 utilities, office expenses, repair and maintenance, and other overhead expenses directly
572 attributable to the operation of the committees in performing their obligations under this rule, as
573 determined by the Board and provided that no certified grievance committee shall be reimbursed
574 in excess of thirty thousand dollars per calendar year for such expenses. Reimbursement shall
575 not be made for the costs of the time of other bar association personnel, volunteer attorneys,
576 depreciation, or amortization. No expense reimbursed under division ~~(H)(2)(a)~~ (C)(1) of this
577 section is eligible for reimbursement under division ~~(H)(2)(b)~~ (C)(2) of this section.

578
579 ~~(e)~~**(3) Quarterly Reimbursement of Certain Indirect Expenses.** In addition to
580 applying annually for reimbursement pursuant to division ~~(H)(2)(b)~~ (C)(2) of this section, a
581 certified grievance committee may apply quarterly to the Board for reimbursement of the
582 expenses set forth in divisions ~~(H)(2)(b)(i) and (ii)~~ (C)(2)(a) and (b) of this section that were
583 necessarily and reasonably incurred during the preceding calendar quarter. Quarterly
584 reimbursement shall be submitted in accordance with the following schedule:

585
586

Reimbursement for the months of:	Due by:
January, February, and March	May 1
April, May, and June	August 1
July, August, and September	November 1
October, November, and December	February 1 (with annual reimbursement request)

587
588 Any expense that is eligible for quarterly reimbursement, but that is not submitted on a quarterly
589 reimbursement application, shall be submitted no later than the appropriate annual
590 reimbursement application pursuant to division ~~(H)(2)(b)~~ (C)(2) of this section and shall be
591 denied by the Board if not timely submitted. The application for quarterly reimbursement shall
592 include an affidavit with documentation demonstrating that the certified grievance committee
593 incurred the expenses set forth in divisions ~~(H)(2)(b)(i) and (ii)~~ (C)(2)(a) and (b) of this section.

594
595 **(3)(D) Audit.** Expenses incurred by certified grievance committees and reimbursed
596 under division ~~(H)(2)~~ (C) of this section may be audited at the discretion of the Board or the
597 Supreme Court ~~and. The costs of any audit shall be paid out of from~~ the Attorney Services Fund.

598
599 **(4)(E) Availability of Funds.** Reimbursement under division ~~(H)(2)~~ (C) of this section
600 is subject to the availability of moneys in the Attorney Services Fund.

601
602 **(I) Public Records.** ~~Except as provided in Section 11(E) of this rule and by state and~~
603 ~~federal law, documents and records of the Board, the Secretary, and the Disciplinary Counsel,~~
604 ~~including budgets, reports, and records of income and expenditures, shall be made available for~~
605 ~~inspection to any member of the general public at reasonable times during regular business~~
606 ~~hours. Upon request, a person responsible for the records shall make copies available at cost,~~
607 ~~within a reasonable period of time. The records shall be maintained in a manner that they can be~~
608 ~~made available for inspection.~~

609
610 **Section 8. Public Access to Disciplinary Documents and Proceedings.**

611
612 **(A)(1) Proceedings Prior to Probable Cause.** Prior to a determination of probable
613 cause, all proceedings and documents relating to review, investigation, and consideration of
614 grievances shall be confidential except as follows:

615
616 (a) Where the respondent expressly and voluntarily waives confidentiality of the
617 proceedings.

618
619 (b) Where the proceedings reveal reasonable cause to believe that respondent is or
620 may be addicted to alcohol or other chemicals, is abusing the use of alcohol or other chemicals,
621 or may be experiencing a mental disorder or substance use disorder that is substantially
622 impairing the respondent's ability to practice law, the information giving rise to this belief shall

623 be communicated to a committee or subcommittee of a bar association, or to an executive officer
624 or employee of a nonprofit corporation established by a bar association, designed to assist
625 lawyers with mental disorders or substance use disorders.

626
627 (c) Where, in the course of an investigation by the Office of Disciplinary Counsel or
628 a certified grievance committee, it is found that a person involved in the investigation may have
629 violated federal or state criminal statutes, the entity conducting the investigation shall notify the
630 appropriate law enforcement or prosecutorial authority of the alleged criminal violation.

631
632 (2) All deliberations of a certified grievance committee regarding the review,
633 investigation, and consideration of grievances shall be confidential.

634
635 (3) All investigatory materials prepared in connection with an investigation
636 conducted pursuant to Section 9 of this rule or submitted with a complaint filed pursuant to
637 Section 10 of this rule shall be confidential prior to certification of a formal complaint pursuant
638 to Section 11 of this rule. The materials shall remain confidential if the complaint is dismissed
639 pursuant to Section 11.

640
641 (B) Proceedings Subsequent to Probable Cause. From the time a complaint has
642 been certified to the Board by a probable cause panel, the complaint and all subsequent
643 proceedings conducted and documents filed in connection with the complaint shall be public
644 except as follows:

645
646 (1) Deliberations by the Board or a hearing panel of the Board shall be confidential.

647
648 (2) The report and recommendations of a hearing panel of the Board shall be
649 confidential until the report of the full Board is filed with the Supreme Court. If the case is
650 dismissed either by the hearing panel or the Board pursuant to Section 12(G) or (H) of this rule,
651 any report of the hearing panel shall be public upon the filing of an order of dismissal. The
652 report and recommendation of the Board shall be confidential until the report is filed with the
653 Supreme Court.

654
655 (3) Investigatory materials prepared in connection with an investigation conducted
656 pursuant to Section 9 of this rule or submitted with a complaint filed pursuant to Section 10 of
657 this rule shall be discoverable as provided in the Ohio Rules of Civil Procedure.

658
659 (4) The Board-approved ADR process shall be confidential, and any knowledge
660 obtained by a mediator or facilitator shall be privileged for all purposes under Rule 8.3 of the
661 Ohio Rules of Professional Conduct, provided the knowledge was obtained while the mediator or
662 facilitator was acting as a mediator or facilitator.

663
664 (C) Restricted Access to Case Documents. A party to a matter pending before the
665 Board may file a motion requesting that the Board restrict public access to all or a portion of a
666 document filed with the Board. Additionally, the chair of a hearing panel or a master
667 commissioner may request that the Board restrict public access to all or a portion of a document
668 filed with the Board. In considering the motion or request, the Board chair shall apply the

669 standards set forth in Sup. R. 45(E). If the Board chair finds that public access to a document
670 should be restricted, the order shall direct the use of the least restrictive means available,
671 including but not limited to redaction of the information rather than limiting access to the entire
672 document.

673
674 **(D) Personal Identifiers.** A party to a matter pending before the Board shall be
675 responsible for omitting personal identifiers from a case document filed with the Board,
676 consistent with Sup. R. 45(D). As used in this rule, “personal identifiers” and “case document”
677 shall have the same meaning as in Sup. R. 44.

678
679 **(E) Response to Grievance.** Notwithstanding the other provisions of this rule, the
680 respondent’s reply to the grievance, made during the course of an investigation by Disciplinary
681 Counsel or a certified grievance committee, shall be furnished to the grievant without waiving
682 any other right to confidentiality provided by this rule. If the respondent specifically requests, in
683 writing, to the Disciplinary Counsel or certified grievance committee that the reply not be
684 furnished to the grievant, the Disciplinary Counsel or certified grievance committee shall not
685 furnish the reply to the grievant. Release to the grievant of the respondent’s reply is,
686 nevertheless, encouraged and consistent with the liberal construction of this rule for the
687 protection of the public.

688
689 **(F) Administrative and Financial Records.** Except as otherwise provided in this
690 section or in rules adopted by the Supreme Court, documents and records pertaining to the
691 administration and finances of the Board and the Office of Disciplinary Counsel, including
692 budgets, reports, and records of income and expenditures, shall be made available, upon request,
693 as provided in Sup. R. 45.

694
695 **(G) Oath of Office.** Prior to taking office, each commissioner, Board-appointed
696 master, and employee of the Board, each member of a certified grievance committee, the
697 Disciplinary Counsel, and each employee of the Office of Disciplinary Counsel shall swear or
698 affirm that he or she will abide by these rules and protect the confidentiality of the proceedings,
699 documents, and deliberations as set forth in these rules.

700
701 **Section 49. Filing and Investigation and Filing of Complaints Grievances.**

702
703 **(A) Referral by Board.** The Board may refer to a certified grievance committee or
704 the Disciplinary Counsel any matter filed with it for investigation as provided in this section.

705
706 **(B) Referral by Certified Grievance Committee.** If a certified grievance committee
707 determines in the course of a disciplinary investigation that the matters of alleged misconduct
708 under investigation are sufficiently serious and complex as to require the assistance of the
709 Disciplinary Counsel, the chair of the certified grievance committee may direct a written request
710 for assistance to the Disciplinary Counsel. The Disciplinary Counsel shall investigate all matters
711 contained in the request and report the results of the investigation to the committee that requested
712 it.

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(C) Power and Duty to Investigate; Dismissal without Investigation.

(1) ~~The investigation of grievances involving alleged~~ Office of Disciplinary Counsel or a certified grievance committee shall investigate a grievance that alleges misconduct by justices, judges, and attorneys and grievances with regard to mental illness shall be conducted by the Disciplinary Counsel or a certified grievance committee a judicial officer or attorney or that alleges a judicial officer or attorney is mentally ill or suffering from a substance use disorder. The Disciplinary Counsel and a certified grievance committee shall review and may investigate any matter filed with it or that comes to its attention and may file a complaint pursuant to this rule in cases where it finds probable cause to believe that misconduct has occurred or that a condition of mental illness or substance use disorder exists.

(2) A grievance may be dismissed without investigation if the grievance and any supporting material do not contain an allegation of misconduct or mental illness or substance use disorder on the part of a ~~justice, judge, judicial officer~~ or attorney. A certified grievance committee shall not dismiss a grievance without investigation unless bar counsel has reviewed the grievance.

(D) Time for Investigation. The investigation of grievances by Disciplinary Counsel or a certified grievance committee shall be concluded within sixty days from the date of the receipt of the grievance. A decision as to the disposition of the grievance shall be made within thirty days after conclusion of the investigation.

(1) **Extensions of Time.** Extensions of time for completion of the investigation may be granted by the ~~Secretary~~ director of the Board ~~upon~~. Disciplinary Counsel or a certified grievance committee shall submit a written request and for good cause shown for an extension. Investigations for which an extension is granted shall be completed within one hundred fifty days from the date of receipt of the grievance. Time may be extended when all parties voluntarily enter into an alternative dispute resolution method for resolving fee disputes sponsored by the Ohio State Bar Association or a local bar association.

(2) **Extension Limits.** The chair or ~~Secretary~~ director of the Board may extend time limits beyond one hundred fifty days from the date of filing in the event of pending litigation, appeals, unusually complex investigations, including the investigation of multiple grievances, time delays in obtaining evidence or testimony of witnesses, or for other good cause shown. A request for an extension of time beyond one hundred fifty days shall be in writing and include the reason for the extension request. If an investigation is not completed within one hundred fifty days from the date of filing the grievance or a good cause extension of that time, the ~~Secretary~~ director may refer the matter either to a geographically appropriate certified grievance committee or the Disciplinary Counsel. The investigation shall be completed within sixty days after referral. No investigation shall be extended beyond one year from the date of the filing of the grievance.

(3) **Time Limits not Jurisdictional.** Time limits set forth in this rule are not jurisdictional. No grievance filed shall be dismissed unless it appears that there has been an

760 unreasonable delay and that the rights of the respondent to have a fair hearing have been
761 violated. Investigations that extend beyond one year from the date of filing are prima facie
762 evidence of unreasonable delay.

763
764 **(E) Retaining Outside Experts.** ~~A~~ If a particular investigation may benefit from the
765 services of an independent investigator, auditor, examiner, assessor, or other expert. ~~A certified~~
766 ~~grievance committee may retain the services of an expert in accordance with the Board~~
767 ~~regulations,~~ a certified grievance committee may submit a written request to the director for
768 permission to retain the services of the outside expert. The written request shall include a
769 general statement of the purpose for which the request is being made and an estimate of the fees
770 and costs expected to be incurred. The outside expert may be retained upon receipt of written
771 approval of the director.

772
773 **(F) Cooperation with Clients' Security Fund.** Upon the receipt of any grievance
774 presenting facts that may be the basis for an award from the Clients' Security Fund under Gov.
775 Bar R. VIII, the Disciplinary Counsel or a certified grievance committee shall notify the grievant
776 of the potential right to an award from the Fund and provide the grievant with the forms
777 necessary to initiate a claim with the Clients' Security Fund. The Disciplinary Counsel, a
778 certified grievance committee, and the Board shall provide the Board of Commissioners of the
779 Clients' Security Fund with findings from investigations, grievances, or any other records it
780 requests in connection with an investigation under Gov. Bar R. VIII. The transmittal of
781 confidential information may be delayed pending the termination of the disciplinary
782 investigation or proceedings.

783
784 **(G) Duty to Cooperate.** The Board, the Disciplinary Counsel, and president,
785 secretary, or chair of a certified grievance committee may call upon any ~~justice, judge,~~ judicial
786 officer or attorney to assist in an investigation or testify in a hearing before the Board or a panel
787 for which provision is made in this rule, including mediation and alternative dispute resolution
788 procedures, as to any matter that he or she would not be bound to claim privilege as an attorney
789 at law. No attorney, and no ~~justice or judge~~ judicial officer, except as provided in Rule 3.3 of the
790 Code of Judicial Conduct, shall neglect or refuse to assist or testify in an investigation or hearing.

791
792 **(H) Referral of Procedural Questions to Board.** In the course of an investigation,
793 the chair of a certified grievance committee, the president of a bar association, or the
794 Disciplinary Counsel may direct a written inquiry regarding a procedural question to the chair of
795 the Board ~~of Commissioners~~. The written inquiry shall be filed with the ~~Secretary~~ director of the
796 Board. Upon receipt of a written inquiry, the chair of the Board and the ~~Secretary~~ director shall
797 consult and direct a response.

798
799 **~~(I)~~ Section 10. Requirements for Filing a Complaint.**

800
801 **~~(1)~~ Definition.** ~~“Complaint” means a formal written allegation of misconduct or~~
802 ~~mental illness of a person designated as the respondent.~~

803
804 **~~(2)~~ (A) Notice of Intent to File.** No investigation conducted by the Disciplinary Counsel
805 or a certified grievance committee shall be completed, and no complaint shall be filed with the

806 Board, without first giving the ~~judge~~ judicial officer or attorney who is the subject of the
807 grievance or investigation notice of each allegation and the opportunity to respond to each
808 allegation.

809
810 **~~(3)~~(B) Majority Vote Required.** No complaint shall be filed by a certified grievance
811 committee unless a majority of a quorum of that committee determines the complaint is
812 warranted.

813
814 **~~(4)~~(C) Notice of Intent not to File.** If, upon review or investigation of a grievance, a
815 certified grievance committee or the Disciplinary Counsel determines that the filing of a
816 complaint with the Board is not warranted, the grievant and the ~~judge~~ judicial officer or attorney
817 shall be notified in writing of that determination, with a statement of the reasons that a complaint
818 was not filed with the Board. The written notice provided by a certified grievance committee
819 shall advise the grievant of the right to have the committee's determination reviewed pursuant to
820 division ~~(4)(5)~~ (D) of this section and the steps to obtain such review. Upon request, a certified
821 grievance committee or the Disciplinary Counsel shall provide the ~~judge~~ judicial officer or
822 attorney with a copy of the grievance.

823
824 **~~(5)~~(D) Appeal.** A grievant who is dissatisfied with a determination by a certified
825 grievance committee not to file a complaint may secure a review of the determination by filing a
826 written request with the ~~Secretary~~ director of the Board within fourteen days after the grievant is
827 notified of the determination. The ~~Secretary~~ director shall refer the request for review to the
828 Disciplinary Counsel or, in the case of a conflict, to another certified grievance committee. The
829 review shall be considered promptly by the Disciplinary Counsel or certified grievance
830 committee, a decision made within thirty days, and the grievant notified. Extensions of time for
831 completion of the review may be granted by the ~~Secretary~~ director, upon written request and for
832 good cause shown. No further review or appeal by a grievant shall be authorized. If the original
833 determination is not affirmed, any further proceedings shall be handled by the Disciplinary
834 Counsel or certified grievance committee.

835
836 **~~(6)~~(E) Content of the Complaint.** A complaint filed with the Board shall be filed in the
837 name of either the Disciplinary Counsel or a certified grievance committee, as relator. The
838 relator shall file five copies of each complaint, with attachments, four of which shall be in paper
839 format and one of which shall be in a readable electronic medium authorized by the director.
840 The complaint shall include all of the following:

841
842 (1) Allegations of specific misconduct including citations to the rules allegedly
843 violated by the Respondent, provided that neither the panel nor the Board shall be limited to the
844 citation to the disciplinary rule in finding violations based on all the evidence;

845
846 (2) If applicable, an allegation of the nature and amount of restitution that may be
847 owed by the respondent or a statement that the relator cannot make a good faith allegation
848 without engaging in further discovery;

849

850 (3) A list of any discipline or suspensions imposed against the respondent, other than
851 a suspension imposed pursuant to Gov. Bar R. X, and the nature of the prior discipline or
852 suspension;

853
854 (4) The respondent's attorney registration number and his or her last known address
855 where the Board shall serve the complaint;

856
857 (5) The signatures of one or more attorneys admitted to the practice of law in Ohio,
858 who shall be counsel for the relator, and by bar counsel;

859
860 (6) A written certification, signed by the president, secretary, or chair of the certified
861 grievance committee, that the counsel are authorized to represent the relator in the action and
862 have accepted the responsibility of prosecuting the complaint to conclusion. The certification
863 shall constitute the authorization of the counsel to represent the relator in the action as fully and
864 completely as if designated and appointed by order of the Supreme Court with all the privileges
865 and immunities of an officer of the Supreme Court.

866
867 **(F) Attachments to Materials Submitted with the Complaint.** ~~Sufficient~~ The
868 relator shall submit with the complaint sufficient investigatory materials to demonstrate probable
869 ~~cause shall be submitted with the complaint.~~ The materials shall include any response filed by or
870 on behalf of the respondent ~~pursuant to division (I)(2) of this section~~ and an affidavit from bar
871 counsel or other appropriate representative of the relator documenting relator's contacts with or
872 attempts to contact the respondent prior to filing the complaint. The materials may include
873 investigation reports, summaries, depositions, statements, ~~the response of the respondent,~~ and
874 any other relevant material.

875
876 **(7) Complaint.** ~~Complaints filed by the Disciplinary Counsel shall be filed in the~~
877 ~~name of Disciplinary Counsel as relator. Complaints filed by a certified grievance committee~~
878 ~~shall be filed in the name of the committee as relator. The complaint shall not be accepted for~~
879 ~~filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall~~
880 ~~be counsel for the relator, and by bar counsel. The complaint shall be accompanied by a written~~
881 ~~certification, signed by the president, secretary, or chair of the certified grievance committee,~~
882 ~~that the counsel are authorized to represent the relator in the action and have accepted the~~
883 ~~responsibility of prosecuting the complaint to conclusion. The certification shall constitute the~~
884 ~~authorization of the counsel to represent the relator in the action as fully and completely as if~~
885 ~~designated and appointed by order of the Supreme Court with all the privileges and immunities~~
886 ~~of an officer of the Supreme Court. The complaint also may be signed by the grievant. Relator~~
887 ~~shall file both of the following with the secretary of the Board:~~

888
889 (a) ~~Four paper copies of the complaint and attachments;~~

890
891 (b) ~~One electronic copy of the complaint and attachments in a readable electronic~~
892 ~~medium authorized by the secretary.~~

893
894 **(H)(G) Service.** Upon the filing of a complaint with the ~~Secretary~~ director of the Board,
895 the relator shall forward a copy of the complaint to the Disciplinary Counsel, the certified

896 grievance committee of the Ohio State Bar Association, the local bar association, and any
897 certified grievance committee serving the county or counties in which the respondent resides and
898 maintains an office and for the county from which the complaint arose.
899

900 ~~**Section 5. Interim Suspension from the Practice of Law for a Felony Conviction or**~~
901 ~~**Default under a Child Support Order.**~~

902
903 ~~(A)(1) **Interim Suspension.** A justice, judge, or an attorney admitted to the practice of~~
904 ~~law in Ohio shall be subject to an interim suspension under either of the following~~
905 ~~circumstances:~~

906
907 ~~(a) The justice, judge, or attorney is convicted in Ohio of a felony or of an equivalent~~
908 ~~offense under the laws of any other state or federal jurisdiction;~~

909
910 ~~(b) A final and enforceable determination has been made pursuant to Chapter 3123.~~
911 ~~of the Revised Code that the justice, judge, or attorney is in default under a child support order.~~

912
913 ~~(2) A certified copy of the judgment entry of conviction of a justice, judge, or an~~
914 ~~attorney of a felony offense shall be transmitted by the judge entering the judgment to the~~
915 ~~Secretary of the Board and to the Disciplinary Counsel or the president, secretary, or chair of the~~
916 ~~geographically appropriate Certified Grievance Committee. A certified copy of the court or~~
917 ~~child support enforcement agency determination that a justice, judge, or attorney is in default~~
918 ~~under a child support order shall be transmitted as provided in division (B) of section 4705.021~~
919 ~~of the Revised Code.~~

920
921 ~~(3) Upon receipt from any source of a certified copy of the judgment entry of~~
922 ~~conviction or of the determination of default under a child support order, the Secretary promptly~~
923 ~~shall submit the entry or determination to the Supreme Court. The entry shall be submitted~~
924 ~~whether the conviction resulted from a plea of guilty or nolo contendere, from a verdict after~~
925 ~~trial, or otherwise and regardless of the pendency of an appeal.~~

926
927 ~~(4) The Supreme Court may enter an order as it considers appropriate, including an~~
928 ~~order immediately suspending the justice, judge, or attorney from the practice of law pending~~
929 ~~further proceedings pursuant to these rules.~~

930
931 ~~(B) **Conclusive Evidence.** A certified copy of a judgment entry of conviction of an~~
932 ~~offense or of a determination of default under a child support order shall be conclusive evidence~~
933 ~~of the commission of that offense or of the default in any disciplinary proceedings instituted~~
934 ~~against a justice, judge, or an attorney based upon the conviction or default.~~

935
936 ~~(C) **Time for Hearing.** Any disciplinary proceeding instituted against a justice,~~
937 ~~judge, or an attorney based on a conviction of an offense or on default under a child support~~
938 ~~order shall not be brought to hearing until all appeals from the conviction or proceedings directly~~
939 ~~related to the default determination are concluded.~~

940

941 ~~(D)(1) Reinstatement.~~ A justice, judge, or an attorney suspended under this rule or Rule
942 H of the Supreme Court Rules for the Government of the Judiciary of Ohio shall be reinstated by
943 the Supreme Court upon the filing with and submission to the Supreme Court by the Secretary of
944 any of the following:

945
946 (a) A certified copy of a judgment entry reversing the conviction of the offense;

947
948 (b) A certified copy of a judgment entry reversing the determination of default under
949 a child support order;

950
951 (c) A notice from a court or child support enforcement agency that the justice, judge,
952 or attorney is no longer in default under a child support order or is subject to a withholding or
953 deduction notice or a new or modified child support order to collect current support or any
954 arrearage due under the child support order that was in default and is complying with that notice
955 or order.

956
957 (2) Reinstatement shall not terminate any pending disciplinary proceeding.

958
959 ~~(E) Duty of Clerk on Entering Order.~~ Upon the entry of an order suspending or
960 reinstating a justice, judge, or an attorney pursuant to this section, the Clerk of the Supreme
961 Court shall mail certified copies of the order as provided in Section 8(D)(1) of this rule.

962
963 **Section 5a. Interim Remedial Suspension.**

964
965 ~~(A)(1) Motion; Response.~~ Upon receipt of substantial, credible evidence
966 demonstrating that a Justice, judge, or attorney has committed a violation of the Code of Judicial
967 Conduct or Ohio Rules of Professional Conduct and poses a substantial threat of serious harm to
968 the public, the Disciplinary Counsel or appropriate Certified Grievance Committee, which shall
969 be referred to as the relator, shall do both of the following:

970
971 (a) Prior to filing a motion for an interim remedial suspension, make a reasonable
972 attempt to provide the Justice, judge, or attorney, who shall be referred to as the respondent, with
973 notice, which may include notice by telephone, that a motion requesting an order for an interim
974 remedial suspension will be filed with the Supreme Court.

975
976 (b) File a motion with the Supreme Court requesting that the Court order an interim
977 remedial suspension. The Disciplinary Counsel or appropriate Certified Grievance Committee
978 shall include, in its motion, proposed findings of fact, proposed conclusions of law, and other
979 information in support of the requested order. Evidence relevant to the requested order shall be
980 attached to or filed with the motion. The motion may include a request for an immediate, interim
981 remedial suspension pursuant to Rule XIV, Section 4(C) of the Rules of Practice of the Supreme
982 Court of Ohio. The motion shall include a certificate detailing the attempts made by the relator
983 to provide advance notice to the respondent of the relator's intent to file the motion. The motion
984 also shall include a certificate of service on the respondent at the most recent address provided
985 by the respondent to the attorney registration office and at the last address of the respondent
986 known to the relator, if different.

987
988 (2) After the filing of a motion for an interim remedial suspension, the respondent
989 may file a memorandum opposing the motion in accordance with Rule XIV, Section 4 of the
990 Rules of Practice of the Supreme Court of Ohio. The respondent shall attach to or file with the
991 memorandum any rebuttal evidence.

992
993 **(B) Order.** Upon consideration of the motion and any memorandum opposing the
994 motion, the Supreme Court may enter an interim remedial order immediately suspending the
995 respondent, pending final disposition of disciplinary proceedings predicated on the conduct
996 threatening the serious harm or may order other action as the Court considers appropriate. If
997 requested by the relator, the Supreme Court may order an immediate interim remedial
998 suspension, prior to receipt of a memorandum opposing the relator's motion, pursuant to Rule
999 XIV, Section 4(C) of the Rules of Practice of the Supreme Court of Ohio. If an order is entered
1000 pursuant to this division, an attorney may be appointed pursuant to Section 8(F) of this rule to
1001 protect the interest of the suspended attorney's clients.

1002
1003 **(C)(1) Motion for Dissolution or Modification of the Suspension.** The respondent
1004 may request dissolution or modification of the order of suspension by filing a motion with the
1005 Supreme Court. The motion shall be filed within thirty days of entry of the order imposing the
1006 suspension, unless the respondent first obtains leave of the Supreme Court to file a motion
1007 beyond that time. The motion shall include a statement and all available evidence as to why the
1008 respondent no longer poses a substantial threat of serious harm to the public. A copy of the
1009 motion shall be served by the respondent on the relator. The relator shall have ten days from the
1010 date the motion is filed to file a response to the motion. The Supreme Court promptly shall
1011 review the motion after a response has been filed or after the time for filing a response has
1012 passed.

1013
1014 (2) In addition to the motion allowed by division (C)(1) of this section, the
1015 respondent may file a motion requesting dissolution of the interim remedial suspension order,
1016 alleging that one hundred eighty days have elapsed since the entry of the order and the relator
1017 has failed to file with the Board a formal complaint predicated on the conduct that was the basis
1018 of the order. A copy of the motion shall be served by the respondent on the relator. The relator
1019 shall have ten days from the date the motion is filed to file a response to the motion. The
1020 Supreme Court promptly shall review the motion after a response has been filed or after the time
1021 for filing a response has passed.

1022
1023 **(D) Procedure.** The Rules of Practice of the Supreme Court of Ohio shall apply to
1024 interim remedial suspension proceedings filed pursuant to this section.

1025
1026 **(E) Duty of Clerk on Entering Order.** Upon the entry of an order suspending or
1027 reinstating the respondent pursuant to this section, the Clerk of the Supreme Court shall mail
1028 certified copies of the order as provided in Section 8(D)(1) of this rule.

1029

1030 **Section 11. Probable Cause Determinations.**

1031
1032 **(A) Probable Cause Panels.** The Board shall establish two probable cause panels to
1033 review each complaint filed with the Board. The chair of the Board shall designate three
1034 commissioners to serve on each panel and shall designate one attorney or judge commissioner as
1035 chair. Each panel shall meet at least once between Board meetings in person or by
1036 teleconference. Upon receipt of a complaint, the director shall assign the complaint and
1037 investigatory materials, in paper or electronic format, to a probable cause panel for review.
1038 Upon review solely of the complaint and any materials submitted with the complaint pursuant to
1039 Section 10 of this rule, the probable cause panel shall make an independent determination of
1040 whether probable cause exists for the filing of a complaint. The panel shall issue an order
1041 certifying the complaint to the Board or dismissing the complaint and investigation. The
1042 determination of the panel shall be sent by certified mail to the Disciplinary Counsel, the
1043 appropriate certified grievance committee, and the respondent.

1044
1045 **(B) Waiver of Probable Cause.** If the respondent has expressly waived, in writing,
1046 his or her right to an independent determination of probable cause by the Board, the director
1047 shall immediately certify the complaint to the Board and send a copy of the complaint to the
1048 Disciplinary Counsel, the appropriate certified grievance committee, and the respondent.

1049
1050 **(C) Appeal of Dismissal.** Within seven days of receipt of the decision of the
1051 probable cause panel to dismiss the complaint, the Disciplinary Counsel or certified grievance
1052 committee may appeal the decision to the full Board by filing a written appeal with the director
1053 of the Board. The Board shall review the investigation and make an independent determination
1054 as to whether probable cause exists for the filing of a complaint. The Board shall issue an order
1055 certifying the complaint or dismissing it and send a copy of its decision to the parties by certified
1056 mail. There shall be no appeal from the decision of the Board.

1057
1058 **(D) Retention of Probable Cause Materials.** The director shall retain the complaint
1059 and investigatory materials until such time as a probable cause panel makes a final determination
1060 regarding certification of the complaint, until the time for appealing a dismissal of the complaint
1061 has expired, or until the Board issues an order regarding any appeal of a dismissal, whichever is
1062 later. After a final determination regarding probable cause has been made by a panel or the
1063 Board, the director shall dispose of all documents and investigatory materials, other than the
1064 formal complaint certified to the Board and any exhibits made part of the certified complaint.

1065
1066 **Section 612. Proceedings of Before the Board after Filing of the Complaint on**
1067 **Certified Complaints.**

1068
1069 **(A) Definitions.**

1070
1071 **(1) Misconduct.** “Misconduct” means any violation by a justice, judge, or an
1072 attorney of any provision of the oath of office taken upon admission to the practice of law in this
1073 state or any violation of the Ohio Rules of Professional Conduct or the Code of Judicial Conduct,
1074 disobedience of these rules or of the terms of an order imposing probation or a suspension from
1075 the practice of law, or the commission or conviction of a crime.

1076
1077 (2) ~~**Probable Cause.** “Probable cause” means there is substantial, credible evidence~~
1078 ~~that misconduct, as defined in division (A)(1) of this section, has been committed.~~

1079
1080 ~~(B)~~ **Manner of Discipline.** Any justice, judge, judicial officer or attorney found
1081 guilty of misconduct shall be disciplined as follows:

1082
1083 (1) Disbarment from the practice of law;

1084
1085 (2) Suspension from the practice of law for an indefinite period subject to
1086 reinstatement as provided in Section ~~40~~ 25 of this rule;

1087
1088 (3) Suspension from the practice of law for a period of six months to two years
1089 subject to a stay in whole or in part;

1090
1091 (4) Probation for a period of time upon conditions as the Supreme Court determines,
1092 but only in conjunction with a suspension ordered pursuant to division ~~(B)~~(A)(3) of this section;

1093
1094 (5) Public reprimand.

1095
1096 ~~(C)~~~~(B)~~ **Effect of Discipline; Enhancement Disbarment or Resignation.** A person who
1097 is disbarred from or who voluntarily has surrendered his or her license to resigned from the
1098 practice of law shall not be readmitted to the practice of law in Ohio. ~~Prior disciplinary offenses~~
1099 ~~shall be considered as a factor that may justify an increase in the degree of discipline to be~~
1100 ~~imposed for subsequent misconduct.~~

1101
1102 ~~(D)~~ **Probable Cause Determination; Appointment of Hearing Panel.**

1103
1104 ~~(1)~~ ~~**Probable Cause Determination.** The Board shall establish two probable cause~~
1105 ~~panels to review all complaints filed with the Board, except those in which the respondent~~
1106 ~~waives a probable cause determination. The chair of the Board shall designate three members of~~
1107 ~~the Board to serve on each panel and shall designate one attorney or judge member of each panel~~
1108 ~~as chair. Each panel shall meet at least once between Board meetings in person or by~~
1109 ~~teleconference. Upon receipt of a complaint, the Secretary shall assign the complaint and~~
1110 ~~investigatory materials, in paper or electronic format, to a probable cause panel for review.~~
1111 ~~Upon review solely of the complaint and investigation materials, the probable cause panel shall~~
1112 ~~make an independent determination of whether probable cause exists for the filing of a~~
1113 ~~complaint. The panel shall issue an order certifying the complaint to the Board or dismissing the~~
1114 ~~complaint and investigation. The determination of the panel shall be sent by certified mail to the~~
1115 ~~Disciplinary Counsel, to the appropriate certified grievance committee, and to the respondent.~~

1116
1117 ~~(2)~~ ~~**Dismissal for Lack of Probable Cause.** Within seven days of receipt of the~~
1118 ~~decision of the probable cause panel to dismiss the complaint, the Disciplinary Counsel or~~
1119 ~~certified grievance committee may appeal the decision to the full Board by filing a written appeal~~
1120 ~~with the secretary of the Board. The Board shall review the investigation and make an~~
1121 ~~independent determination as to whether probable cause exists for the filing of a complaint. The~~

1122 Board shall issue an order certifying the complaint or dismissing it and send a copy of its
1123 decision to the parties by certified mail. There shall be no appeal from the decision of the Board.
1124

1125 **(3)(C) Appointment of Hearing Panel.** After the respondent has filed an answer or the
1126 time for filing an answer has elapsed, the secretary director shall appoint a hearing panel
1127 consisting of three ~~members of the Board~~ commissioners chosen by lot from ~~members~~
1128 commissioners who did not serve on the probable cause panel. The secretary director shall
1129 designate one attorney or judge ~~member of the panel~~ commissioner to serve as chair of the panel.
1130 No member of the hearing panel shall be a resident of the appellate district from which the
1131 complaint originated. Not more than one nonattorney shall serve on any hearing panel. A
1132 majority of the panel shall constitute a quorum. The panel chair shall rule on all motions and
1133 interlocutory matters, and no ruling by the panel chair on ~~motions and~~ a motion or interlocutory
1134 ~~matters~~ matter may be appealed prior to entry of the final order.
1135

1136 **(E)(D) Notice to Respondent upon Filing of the Complaint.** The Secretary director of
1137 the Board shall send a copy of the complaint by certified mail to the respondent with a notice
1138 requiring the respondent to file, within twenty days after the mailing of the notice, six copies of
1139 his or her answer and serve copies of the answer on counsel of record named in the complaint.
1140 Extensions of time for the filing of the answer may be granted by the Secretary director for good
1141 cause shown.
1142

1143 **(F)(E) Amendments to the Complaint.** The relator may file an amended complaint,
1144 without filing a motion for leave to amend, sixty or more days before the scheduled hearing date.
1145 If the relator seeks to file an amended complaint within sixty days of the scheduled hearing date,
1146 the relator shall file a motion for leave to amend with the amended complaint. The panel chair
1147 may grant the motion for leave to amend for good cause shown. The amended complaint shall
1148 be filed and served as set forth in this rule. The amended complaint shall not be subject to
1149 probable cause review.
1150

1151 **(F) Hearing.** Upon reasonable notice and at a time and location set by the panel chair
1152 pursuant to the ~~hearing procedures and guidelines~~ regulations of the Board, the panel shall hold a
1153 formal hearing on the complaint. Requests for continuances may be granted by the panel chair
1154 for good cause shown. All hearings shall be recorded by a court reporter provided by the Board
1155 and a transcript filed with the Secretary director.
1156

1157 **(G) Authority of Hearing Panel; Dismissal.** If, at the end of the evidence presented
1158 by the relator or of all evidence, a unanimous hearing panel finds that the evidence is insufficient
1159 to support a charge or count of misconduct, the panel may order on the record or in its report that
1160 the complaint or count be dismissed. ~~The panel chair~~ If a unanimous hearing panel dismisses a
1161 complaint in its entirety, the director shall give written notice of the action taken send a dismissal
1162 entry to the Board, the relator, respondent, and all counsel of record, the Disciplinary Counsel,
1163 ~~the Certified Grievance Committee for and the local bar association of the county or counties in~~
1164 ~~which the respondent resides and maintains his or her office and the county from which the~~
1165 ~~complaint arose, and the Ohio State Bar Association.~~
1166

1167 (H) **Referral by Panel.** In the alternative, if the hearing panel determines that
1168 findings of fact and recommendations for dismissal should be referred to the Board for review
1169 and action by the full Board, the panel may submit its findings of fact to the Board and may
1170 recommend dismissal in the same manner as provided in this rule with respect to public
1171 reprimand, probation, suspension, or disbarment. If the Board dismisses a complaint in its
1172 entirety, the director shall send a dismissal entry to realtor, respondent, and counsel of record.
1173

1174 (I) **Public Reprimand, Probation, Suspension, or Disbarment; Duty of Hearing**
1175 **Panel.** If the hearing panel determines, by clear and convincing evidence, that respondent is
1176 guilty of misconduct and that a public reprimand, suspension for a period of six months to two
1177 years, probation, suspension for an indefinite period, or disbarment is merited, the hearing panel
1178 shall ~~file its certified report of the proceedings,~~ submit a report of its finding of facts, conclusions
1179 of law, and recommendations, including any recommendations as to probation and the conditions
1180 of probation, with the Secretary. ~~The report shall include the transcript of testimony taken and~~
1181 ~~an itemized statement of the actual and necessary expenses incurred in connection with the~~
1182 ~~proceedings~~ recommended sanction to the director. If applicable, the panel shall include in its
1183 report any conditions of probation, a stayed suspension, or reinstatement to the practice of law.
1184

1185 (J) **Review by Entire Board.** After review, the Board may refer the matter to the
1186 hearing panel for further hearing, order a further hearing before the Board, or proceed on the
1187 ~~certified~~ report of the prior proceedings before the hearing panel. After the final review, the
1188 Board may dismiss the complaint or find that the respondent is guilty of misconduct. If the
1189 complaint is dismissed, the dismissal shall be reported to the ~~Secretary~~ director of the Board,
1190 who shall notify the same persons and organizations that would have received notice if the
1191 complaint had been dismissed by the hearing panel.
1192

1193 (K) **Public Reprimand; Probation, Suspension, or Disbarment; Duty of Board**
1194 **after Review.** If the Board determines that a public reprimand, suspension for a period of six
1195 months to two years, probation, suspension for an indefinite period, or disbarment is merited, the
1196 Board shall file a ~~final~~ certified report of its proceedings, including its findings of fact ~~and~~
1197 ~~recommendations,~~ conclusions of law, and recommended sanction, with the clerk of the Supreme
1198 Court. The report shall include the transcript of testimony taken, if any, and an itemized
1199 statement of the actual and necessary expenses incurred in connection with the proceedings. The
1200 Board forthwith shall notify the respondent and all counsel of record of the action, enclosing
1201 with the notice a copy of the ~~findings of fact and recommendations~~ Board's report and a copy of
1202 the statement of the actual and necessary expenses incurred.
1203

1204 **Section 13. Aggravating and Mitigating Factors.**
1205

1206 (A) **In General.** Each disciplinary case involves unique facts and circumstances. In
1207 striving for fair disciplinary standards, the Board shall give consideration to specific professional
1208 misconduct and to the existence of aggravating or mitigating factors. In determining the
1209 appropriate sanction, the Board shall consider all relevant factors, precedent established by the
1210 Supreme Court of Ohio, and the aggravating and mitigating factors set forth in this section.
1211

1212 **(B) Aggravation.** The following shall not control the discretion of the Board, but
1213 may be considered in favor of recommending a more severe sanction:

- 1214
- 1215 (1) Prior disciplinary offenses;
 - 1216
 - 1217 (2) A dishonest or selfish motive;
 - 1218
 - 1219 (3) A pattern of misconduct;
 - 1220
 - 1221 (4) Multiple offenses;
 - 1222
 - 1223 (5) A lack of cooperation in the disciplinary process;
 - 1224
 - 1225 (6) The submission of false evidence, false statements, or other deceptive practices
1226 during the disciplinary process;
 - 1227
 - 1228 (7) A refusal to acknowledge wrongful nature of conduct;
 - 1229
 - 1230 (8) The vulnerability of and resulting harm to victims of the misconduct;
 - 1231
 - 1232 (9) A failure to make restitution.
 - 1233

1234 **(C) Mitigation.** The following shall not control the discretion of the Board, but may
1235 be considered in favor of recommending a less severe sanction:

- 1236
- 1237 (1) The absence of a prior disciplinary record;
 - 1238
 - 1239 (2) The absence of a dishonest or selfish motive;
 - 1240
 - 1241 (3) A timely, good faith effort to make restitution or to rectify consequences of
1242 misconduct;
 - 1243
 - 1244 (4) Full and free disclosure to the Board or cooperative attitude toward proceedings;
 - 1245
 - 1246 (5) Character or reputation;
 - 1247
 - 1248 (6) Imposition of other penalties or sanctions;
 - 1249
 - 1250 (7) Mental disorder or substance use disorder when there has been all of the
1251 following:
 - 1252
 - 1253 (a) A diagnosis of a mental disorder or substance use disorder by a qualified health
1254 care professional or qualified chemical dependency professional;
 - 1255
 - 1256 (b) A determination that the mental disorder or substance use disorder contributed to
1257 cause the misconduct;

1258
1259 (c) In the case of mental disorder, a sustained period of successful treatment or in the
1260 case of substance use disorder, a certification of successful completion of an approved treatment
1261 program;

1262
1263 (d) A prognosis from a qualified health care professional or qualified chemical
1264 dependency professional that the attorney will be able to return to competent, ethical professional
1265 practice under specified conditions.

1266
1267 (8) Other interim rehabilitation.

1268
1269 **Section 6a 14. Default; Interim Default Suspension.**

1270
1271 (A) **Certification of Default.** If the respondent has not filed an answer to a complaint
1272 on or before the answer date set forth in the notice to the respondent of the filing of the
1273 complaint or any extension of the answer date, the secretary director of the Board shall provide
1274 the relator and respondent, in writing, a notice of intent to certify respondent's default to the
1275 Supreme Court. The certification of default shall be filed thirty days after the notice of intent to
1276 certify unless the respondent files an answer prior to expiration of the thirty-day period. The
1277 certification shall include a copy of the formal complaint pending before the Board and either a
1278 certificate indicating that the complaint has been served on the respondent or a certificate
1279 indicating that the complaint has been served on the clerk of the Supreme Court pursuant to
1280 Section ~~H(B)~~ 27 of this rule.

1281
1282 (B)(1) **Entry of Interim Default Suspension.** Upon receipt of the certification, the
1283 Supreme Court shall issue the respondent an order to show cause why an interim default
1284 suspension shall not be entered. Notice of the order to show cause shall be served by the clerk of
1285 the Supreme Court as set forth in Section ~~8(A)~~ 17 of this rule, and any response to the order and
1286 answer briefs may be filed as set forth in Section ~~8(B) and (C)~~ 17 of this rule. Upon receipt of a
1287 response or expiration of the time for objections, the Court may enter an order it considers
1288 appropriate, including an order immediately suspending the respondent from the practice of law.
1289 Upon entry of an order suspending the respondent pursuant to this section, the clerk of the
1290 Supreme Court shall mail certified copies of the order as provided in Section ~~8(D)(4)~~ 17 of this
1291 rule.

1292
1293 (2) If the relator determines that the respondent owes restitution to clients or third
1294 parties as a result of the misconduct alleged in the formal complaint, the relator shall file a notice
1295 of restitution owed with the Supreme Court. The notice of restitution owed shall be filed within
1296 one hundred and eighty days of the date of the entry of an interim default suspension and shall be
1297 accompanied by sworn or certified documentary prima facie evidence in support of the claim of
1298 restitution. If relator files a motion to initiate default proceedings pursuant to division (D) of this
1299 section, the relator shall allege any claim of restitution owed in its motion and present evidence
1300 to the Board on remand in support of that claim.

1301
1302 (C) **Motion for Leave to Answer.** Within one hundred eighty days of the date of the
1303 entry of an interim default judgment suspension, the respondent may file a motion with the

1304 Supreme Court for leave to file an answer to the complaint pending before the Board. The
1305 motion shall include a copy of the respondent's answer as an attachment. The motion may
1306 include a request from the respondent to terminate the interim default suspension for good cause
1307 shown. Upon receipt of the motion and any response from the relator, the Court may grant the
1308 motion and remand the matter to the Board for further proceedings under Section 6 12 of this
1309 rule. The order remanding the matter to the Board shall indicate that the interim default
1310 judgment suspension either remains in place while proceedings are pending before the Board or
1311 is terminated for good cause shown.

1312
1313 **(D) Motion to Initiate Default Proceedings.** Within one hundred eighty days of the
1314 date of the entry of an interim default judgment suspension, the relator may file a motion with
1315 the Supreme Court to have the case remanded to the Board for the purpose of seeking the
1316 permanent disbarment of the respondent. Upon receipt of the motion, the Court may grant the
1317 motion and remand the matter to the Board for default proceedings pursuant to division (F) of
1318 this section. The order remanding the matter to the Board shall indicate that the interim default
1319 judgment suspension remains in place while proceedings are pending before the Board.

1320
1321 **(E)(1) Indefinite Suspension; Restitution.** If the respondent has not filed a timely
1322 motion for leave to answer pursuant to division (C) of this section or if the relator has not filed a
1323 timely motion to initiate disbarment proceedings pursuant to division (D) of this section, the
1324 Court shall issue the respondent an order to show cause why the interim default judgment
1325 suspension should not be converted into an indefinite suspension. If the relator has filed a notice
1326 and supporting evidence pursuant to division (B)(2) of this section, the order shall also direct the
1327 respondent to show cause why the respondent should not be ordered to pay restitution in
1328 accordance with relator's notice and evidence. Notice of the order to show cause shall be served
1329 by the clerk of the Supreme Court as set forth in Section ~~8(A)~~ 17 of this rule, and any response to
1330 the order and answer briefs may be filed as set forth in Section ~~8(B) and (C)~~ 17 of this rule.
1331 Upon receipt of a response or expiration of the time for objections, the Court may enter an order
1332 it considers appropriate, including an order immediately converting the interim default
1333 suspension into an indefinite suspension and ordering the payment of restitution.

1334
1335 (2) Further proceedings to terminate the indefinite suspension and reinstate the
1336 respondent to the practice of law shall be conducted pursuant to Section ~~40~~ 25 of this rule, except
1337 that the respondent may file a petition for reinstatement no earlier than two years after the date of
1338 the entry of the interim default judgment suspension pursuant to division (B)(1) of this section.

1339
1340 **(F) Default Proceeding.** Within thirty days of the issuance of a remand order
1341 pursuant to division (D) of this section, the relator shall file a motion for default with the Board.
1342 Prior to filing a motion for default, relator shall make reasonable efforts to contact the
1343 respondent.

1344
1345 **(1) Motion.** A motion for default shall contain all of the following:
1346
1347 (a) An affidavit from bar counsel or other appropriate representative of the relator
1348 documenting the efforts made to contact the respondent and the result;

1349

1350 (b) Sworn or certified documentary prima facie evidence in support of the allegations
1351 made;

1352
1353 (c) The recommendation of the relator that the respondent should be disbarred based
1354 on the misconduct alleged in the complaint and case law in support of the recommendation;

1355
1356 (d) A statement of any aggravating or mitigating factors of which the relator is aware;

1357
1358 (e) A certificate of service of the motion on respondent at the address shown for the
1359 respondent on the records of the Supreme Court and at the last address known to the relator, if
1360 different.

1361
1362 **(2)(a) Disposition.** The ~~secretary~~ director of the Board shall refer the motion for
1363 default to a judge or attorney ~~member of the Board~~ commissioner or Board-appointed master
1364 ~~commissioner~~ who shall rule on the motion. A commissioner or master appointed to rule on the
1365 motion for default shall rule on all motions and interlocutory matters, and no ruling by the
1366 commissioner or master on a motion or interlocutory matter may be appealed prior to entry of the
1367 final order. If a motion for default is granted, the ~~Board member~~ commissioner or master
1368 ~~commissioner~~ shall prepare a certified report for review by the Board. After review, the Board
1369 shall file a final certified report in accordance with Section ~~6~~ 12(K) of this rule finding one of the
1370 following:

1371
1372 (i) That the relator has failed to establish the allegations of the complaint by clear
1373 and convincing evidence and recommending that the complaint be dismissed and that the Court
1374 enter an order terminating the interim default judgment suspension;

1375
1376 (ii) That there is clear and convincing evidence to establish that respondent is guilty
1377 of misconduct and recommending the respondent be indefinitely suspended from the practice of
1378 law, subject to reinstatement as provided in Section ~~40~~ 25 of this rule;

1379
1380 (iii) That there is clear and convincing evidence to establish that respondent is guilty
1381 of misconduct and recommending the respondent be disbarred.

1382
1383 (b) If the Supreme Court grants a motion for leave to answer and remands the matter
1384 to the Board pursuant to division (C) of this section, the chair of the Board shall set aside a
1385 default entry and order a panel hearing at any time before the report and recommendation of the
1386 Board are certified to the Supreme Court.

1387
1388 **(G) Duty of Relator.** The relator shall have a continuing duty to preserve evidence
1389 necessary to establish the misconduct alleged in the complaint filed with the Board.

1390
1391 **Section 7 15. Mental Illness or Substance Use Disorder Suspension; ~~Standard;~~**
1392 **~~Findings; Examination; Duty of Clerk; Termination of Suspension.~~**

1393
1394 **(A) Definition.** ~~“Mental illness” has the same meaning as in division (A) of section~~
1395 ~~5122.01 of the Revised Code.~~

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(B) Mental Illness Suspension.

(1) After an answer has been filed or the time for answer has elapsed, the Board forthwith shall certify a complaint to the Supreme Court if either of the following applies:

(a) The complaint, answer, or other subsequent pleading alleges mental illness that substantially impairs the ability of the attorney to practice law and is supported by a certified copy of a journal entry of a court of competent jurisdiction adjudicating mental illness:

(b) After an examination as provided in division ~~(C)~~(B) of this section, the Board finds an existing mental illness or substance use disorder that substantially impairs the ability of the attorney to practice law.

(2) Upon receipt of a certified complaint pursuant to division ~~(B)~~(A)(1) of this section, the Supreme Court may suspend the respondent from the practice of law.

~~(C)~~(B) Examination.

(1) The Board or hearing panel, on its own motion or motion of either party, may order a medical, psychological, or psychiatric examination of the respondent if ~~either~~ any of the following applies:

(a) The complaint, answer, or any subsequent pleading alleges an existing mental illness that substantially impairs the ability of the attorney to practice law but is unsupported by a journal entry of a court of competent jurisdiction;

(b) Mental illness that substantially impairs the ability of the attorney to practice law otherwise is placed in issue;

(c) The complaint, answer, or any subsequent pleading alleges an existing substance use disorder that substantially impairs the ability of the attorney to practice law;

(d) Substance use disorder that substantially impairs the ability of the attorney to practice law is otherwise placed in issue.

(2) The medical, psychological, or psychiatric examination of respondent shall be conducted by one or more physicians or psychologists designated by the Board or hearing panel. The findings of the physician or ~~physicians~~ psychologist shall be presented to the Board or hearing panel as evidence and made available to both parties. The parties shall have an opportunity to file objections to the findings. If no objections are filed, the hearing panel may conduct a hearing or proceed to prepare and file a report and recommendation with the Board. If the results of the examination are contested objections are filed, the hearing panel may conduct a hearing on the objections and shall submit its findings of fact and conclusions to prepare and file a report with the Board.

1442 ~~(D)~~**(C) Board Review; Court Order.** If, after reviewing the report of the hearing panel,
1443 the Board concludes the record establishes that the respondent suffers from mental illness or
1444 substance use disorder that substantially impairs the ability of the attorney to practice law, the
1445 Board ~~forthwith~~ shall prepare and certify the complaint a report and the record of the
1446 proceedings to the Supreme Court. The Supreme Court may suspend the respondent from the
1447 practice of law and order the respondent's registration status changed to inactive. If the Court
1448 orders a mental illness or substance use disorder suspension, further proceedings before the
1449 Board on any misconduct alleged in the formal complaint shall be stayed until such time as the
1450 respondent applies to have the suspension terminated and a hearing panel determines that the
1451 application should be granted.
1452

1453 ~~(E)~~**(D) Duty of Clerk on Entering Order.** Upon the entry of an order suspending
1454 respondent for mental illness or substance use disorder that substantially impairs the ability of
1455 the attorney to practice law, the clerk of the Supreme Court shall mail certified copies of the
1456 order as provided in Section ~~8(D)(1)~~ 17 of this rule and shall change the registration of
1457 respondent to inactive status. The order shall not be published but shall be a matter of public
1458 record.
1459

1460 ~~(F)~~**(E) Termination.** A suspension under this section may be terminated on application
1461 of the respondent to the Board and a showing of removal of the cause for the suspension. ~~The~~
1462 ~~termination of the suspension shall be certified by the Board to, and affirmed by, the Supreme~~
1463 ~~Court.~~ The director of the Board shall assign the application to a hearing panel. If the hearing
1464 panel finds by clear and convincing evidence that the suspension should be terminated and if the
1465 adjudication of a complaint alleging misconduct has been stayed as a result of the imposition of
1466 the suspension, the hearing panel shall conduct proceedings on the complaint in accordance with
1467 in Section 12 of this rule. The hearing panel shall prepare a written report of its findings and a
1468 recommendation with regard to the termination of the suspension and the disposition of any
1469 misconduct alleged in the formal complaint, including a recommended sanction for the
1470 misconduct that is found. The report of the hearing panel shall be certified to the Board, and the
1471 report of the Board and the record of the proceedings shall be certified to the Supreme Court.
1472

1473 **Section 16. Consent to Discipline.**

1474
1475 **(A) Content of Agreement.** The relator and respondent may enter into a written
1476 agreement wherein the respondent admits to alleged misconduct and the relator and respondent
1477 agree upon a sanction, other than an indefinite suspension or disbarment, to be imposed for that
1478 misconduct. The written agreement may be entered into after a complaint is certified by the
1479 Board, but no later than sixty days after appointment of a hearing panel. For good cause shown,
1480 the chair of the hearing panel or the Board chair may extend the time for the parties to file a
1481 written agreement by an additional thirty days. The written agreement shall be signed by the
1482 respondent, respondent's counsel, if the respondent is represented by counsel, and relator, and
1483 shall include all of the following:
1484

1485 (1) An admission by the respondent, conditioned upon acceptance of the agreement
1486 by the Board, that the respondent committed the misconduct listed in the agreement;
1487

1488 (2) The sanction agreed upon by the relator and respondent for the misconduct
1489 admitted by the respondent and any case law that supports the agreed sanction;

1490
1491 (3) Any aggravating and mitigating factors, including but not limited to those listed in
1492 Section 10, that are applicable to the misconduct and agreed sanction;

1493
1494 (4) An affidavit of the respondent that includes all of the following statements:

1495
1496 (a) That the respondent admits to having committed the misconduct listed in the
1497 agreement, that grounds exist for imposition of a sanction against the respondent for the
1498 misconduct, and that the agreement sets forth all grounds for discipline currently pending before
1499 the Board;

1500
1501 (b) That the respondent admits to the truth of the material facts relevant to the
1502 misconduct listed in the agreement;

1503
1504 (c) That the respondent agrees to the sanction to be recommended to the Board;

1505
1506 (d) That the respondent's admissions and agreement are freely and voluntarily given,
1507 without coercion or duress, and that the respondent is fully aware of the implications of the
1508 admissions and agreement on his or her ability to practice law in Ohio.

1509
1510 (e) That the respondent understands that the Supreme Court of Ohio has the final
1511 authority to determine the appropriate sanction for the misconduct admitted by the respondent.

1512
1513 **(B) Filing and Consideration of the Agreement.** The agreement shall be filed with
1514 the director of the Board and submitted to the hearing panel or a master. Relator and respondent
1515 may file a brief in support of the agreement. If the hearing panel, by majority vote, or master
1516 recommends acceptance of the agreement and concurs in the agreed sanction, the matter shall be
1517 scheduled for consideration by the Board. If the agreement is not accepted by the hearing panel
1518 or master, the matter shall be set for hearing.

1519
1520 **(C) Board Consideration of the Agreement.** If the agreement is submitted to the
1521 Board, the Board, by majority vote, may accept or reject the agreement. If the Board accepts the
1522 agreement, the agreement shall form the basis for the certified report submitted to the Supreme
1523 Court. If the Board rejects the agreement, the matter shall be returned to the hearing panel and
1524 set for a hearing.

1525
1526 **(D) Rejected Agreement Not Admissible.** If the agreement is not accepted by the
1527 hearing panel, the Board, or the Supreme Court, the agreement shall not be admissible or
1528 otherwise used in subsequent disciplinary proceedings.

1529
1530

1531 **Section 8 17. ~~Review by Supreme Court~~ Review of Certified Report; Orders; Costs;**
1532 **Publication; Duties of Disqualified or Resigned Attorney.**
1533

1534 (A) **Show Cause Order.** After the filing of a final report of the Board, the Supreme
1535 Court shall issue the respondent an order to show cause why the report of the Board shall not be
1536 confirmed and a disciplinary order entered. Notice of the order to show cause shall be served by
1537 the clerk of the Supreme Court on the respondent and all counsel of record personally or by
1538 certified mail. The clerk shall not issue a show cause order upon receipt of a report
1539 recommending the acceptance of a consent to discipline agreement.
1540

1541 (B) **Response to Show Cause Order.** Within twenty days after the issuance of an
1542 order to show cause, the respondent or relator may file objections to the findings or
1543 recommendations of the Board and to the entry of a disciplinary order or to the confirmation of
1544 the report on which the order to show cause was issued. The objections shall be accompanied by
1545 a brief in support of the objections and proof of service of copies of the objections and the brief
1546 on the ~~Secretary~~ director of the Board and all counsel of record. Objections and briefs shall be
1547 filed in the number and form required for original actions by the Rules of Practice of the
1548 Supreme Court of Ohio.
1549

1550 (C) **Answer Briefs.** Answer briefs and proof of service shall be filed within fifteen
1551 days after briefs in support of objections have been filed. All briefs shall be filed in the number
1552 and form required for original actions by the Rules of Practice of the Supreme Court of Ohio.
1553

1554 (D) **Supreme Court Proceedings.** After a hearing on objections, or if objections are
1555 not filed within the prescribed time, the Supreme Court shall enter an order as it finds proper. If
1556 the Court rejects ~~the sanction contained in a certified report~~ a consent to discipline agreement
1557 submitted pursuant to Section ~~11 16~~ of ~~the Rules and Regulations Governing Procedure on~~
1558 ~~Complaints and Hearings Before the Board of Commissioners on Grievances and Discipline~~ this
1559 rule, the Court shall remand the matter to the ~~board~~ Board for a hearing further proceedings.
1560 Unless otherwise ordered by the ~~court~~ Court, any disciplinary order or order accepting
1561 resignation shall be effective on the date that the order is announced ~~by the court~~. The order may
1562 provide for reimbursement of costs and expenses incurred by the Board or panels. An order
1563 imposing a suspension for an indefinite period or for a period of six months to two years may
1564 allow full or partial credit for any period of suspension imposed under Section ~~5 18~~ of this rule.
1565

1566 (1) **Notice.** Upon the entry of any disciplinary order pursuant to this rule or the
1567 acceptance of a resignation from the practice of law, the clerk of the Supreme Court shall mail
1568 certified copies of the entry or acceptance to counsel of record, to the Board, to respondent at his
1569 or her last known address, to the Disciplinary Counsel, to the certified grievance committee for
1570 and the local bar association of the county or counties in which the respondent resides and
1571 maintains his or her office and the county or counties from which the complaint arose, to the
1572 Ohio State Bar Association, to the administrative judge of the court of common pleas for each
1573 county in which the respondent resides or maintains an office, and to the chief judges of the
1574 United States District Courts in Ohio, the United States Court of Appeals for the Sixth Circuit, to
1575 the disciplinary authority of any other state in which the respondent is known to be admitted, and
1576 to the Supreme Court of the United States.

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(2) **Publication.** ~~The~~ Except as provided in Section 15 of this rule, the Supreme Court Reporter shall publish any disciplinary order or acceptance of a resignation from the practice of law entered by the Supreme Court under this rule in the *Ohio Official Reports*, ~~the Ohio State Bar Association Report~~, and in a publication, if any, of the local bar association. The publication shall include the citation of the case in which the disciplinary order or the acceptance of a resignation was issued. ~~Publication also shall be made in a local newspaper having the largest general circulation in the county or counties designated by the Board. This publication shall be in the form of a paid legal advertisement, in a style and size commensurate with legal advertisements, and shall be published three times within the thirty days following the order of the Supreme Court. Publication fees shall be assessed against the respondent as part of the costs.~~

~~(E) Duties of a Disbarred or Suspended Attorney.~~

~~(1) In its order disbarring or suspending an attorney or in any order pertaining to the resignation of an attorney, the Supreme Court shall include a time limit, not to exceed thirty days, within which the disqualified attorney shall do all of the following:~~

~~(a) Notify all clients being represented in pending matters and any co-counsel of his or her disbarment, suspension, or resignation and consequent disqualification to act as an attorney after the effective date of the order, and, in the absence of co-counsel, notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in his or her place;~~

~~(b) Regardless of any fees or expenses due the attorney, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining the papers or other property;~~

~~(c) Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in his or her possession or control;~~

~~(d) Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of his or her disqualification or resignation to act as an attorney after the effective date of the disqualification order, and file a notice of disqualification of counsel with the court or agency before which the litigation is pending for inclusion in the respective file or files.~~

~~(2) All notices required by a disciplinary order of the Supreme Court shall be sent by certified mail and contain a return address where communications may be directed to the disqualified attorney.~~

~~(3) Within the time limit prescribed by the Supreme Court, the disqualified attorney shall file with the Clerk of the Supreme Court and the Disciplinary Counsel an affidavit showing compliance with the order entered pursuant to this rule and proof of service of notices required by the order. The affidavit also shall set forth the address where the affiant may receive~~

1623 ~~communications and the disqualified attorney shall inform the Clerk and the Disciplinary~~
1624 ~~Counsel of any subsequent change in address.~~

1625
1626 ~~(4) A disqualified attorney shall maintain a record of the various steps taken pursuant~~
1627 ~~to the order entered by the Supreme Court so that, in any subsequent proceeding, proof of~~
1628 ~~compliance with the order will be available for receipt in evidence.~~

1629
1630 ~~(F) **Appointed Attorney to Inventory and Protect Clients.** Whenever an attorney~~
1631 ~~is suspended for mental illness or pursuant to Section 5a of this rule, cannot be found in the~~
1632 ~~jurisdiction for a period of sixty days or more or such shorter time as ordered by the Supreme~~
1633 ~~Court, dies, refuses to meet or work with a significant number of clients for a period of sixty~~
1634 ~~days or more, or fails to comply with division (E) of this section, and no partner, executor, or~~
1635 ~~other responsible party capable of conducting the attorney's affairs is available and willing to~~
1636 ~~assume appropriate responsibility, the Disciplinary Counsel or chair of a Certified Grievance~~
1637 ~~Committee may appoint an attorney or attorneys to inventory the files of the attorney and take~~
1638 ~~action, including action set forth in division (E) of this section, as is necessary to protect the~~
1639 ~~interest of clients of the attorney. Upon approval by the Secretary of the Board, reasonable fees~~
1640 ~~may be paid to the appointed attorney or attorneys from the Attorney Registration Fund. Except~~
1641 ~~as necessary to carry out the order of appointment by the Disciplinary Counsel or chair of a~~
1642 ~~Certified Grievance Committee, the appointed attorney or attorneys shall not disclose any~~
1643 ~~information contained in inventoried files without the written consent of the client to whom the~~
1644 ~~files relate. An appointed attorney may not represent that client.~~

1645
1646 ~~(G)(1) **Employment of a Disqualified or Suspended Attorney.** A disqualified or~~
1647 ~~suspended attorney subject to division (G) of this rule shall not do either of the following:~~

1648
1649 ~~(a) Have any direct client contact, other than serving as an observer in any meeting,~~
1650 ~~hearing or interaction between an attorney and a client;~~

1651
1652 ~~(b) Receive, disburse, or otherwise handle client trust funds or property.~~

1653
1654 ~~(2) On or after September 1, 2008, a disqualified attorney subject to division (G) of~~
1655 ~~this rule shall not enter into an employment, contractual, or consulting relationship with an~~
1656 ~~attorney or law firm with which the disqualified attorney was associated as a partner,~~
1657 ~~shareholder, member, or employee at the time the attorney engaged in misconduct that resulted~~
1658 ~~in his or her disqualification from the practice of law.~~

1659
1660 ~~(3) An attorney or law firm seeking to enter into an employment, contractual, or~~
1661 ~~consulting relationship with a disqualified or suspended attorney shall register the employment,~~
1662 ~~contractual, or consulting relationship with the Office of Disciplinary Counsel. The registration~~
1663 ~~shall be on a form provided by the Office of Disciplinary Counsel and shall include all of the~~
1664 ~~following:~~

1665
1666 ~~(a) The name of and contact information for the disqualified or suspended attorney;~~

1667

1668 (b) ~~The name of and contact information for the attorney or law firm seeking to enter~~
1669 ~~into the relationship with the disqualified or suspended attorney;~~

1670
1671 (e) ~~The name of and contact information for the attorney responsible for directly~~
1672 ~~supervising the disqualified or suspended attorney, if different than the attorney identified in~~
1673 ~~division (G)(3)(b) of this section;~~

1674
1675 (d) ~~The capacity in which the disqualified or suspended attorney will be employed,~~
1676 ~~including a description of duties to be performed or services to be provided;~~

1677
1678 (e) ~~An affidavit executed by either the attorney filing the registration or the~~
1679 ~~supervising attorney indicating that the attorney has read the Supreme Court's order disbarring,~~
1680 ~~accepting the resignation of, or suspending the attorney to be employed and understands the~~
1681 ~~limitations contained in that order;~~

1682
1683 (f) ~~Any other information considered necessary by the Office of Disciplinary~~
1684 ~~Counsel.~~

1685
1686 (4) ~~Upon receipt of a completed registration form, the Office of Disciplinary Counsel~~
1687 ~~shall send a written acknowledgement to the attorney or law firm that filed the registration form~~
1688 ~~and any supervising attorney identified on the form. Upon receipt of the written~~
1689 ~~acknowledgement, the employment, contractual, or consulting relationship may commence.~~

1690
1691 (5) ~~An attorney who registers the employment of a disqualified or suspended attorney~~
1692 ~~shall file an amended registration form with the Office of Disciplinary Counsel when there is any~~
1693 ~~material change in the information provided on a prior registration form and shall notify the~~
1694 ~~Office of Disciplinary Counsel upon termination of the employment, contractual, or consulting~~
1695 ~~relationship.~~

1696
1697 (6) ~~If a disqualified or suspended attorney will perform work or provide services in~~
1698 ~~connection with any client matter, the employing attorney or law firm shall inform the client of~~
1699 ~~the status of the disqualified or suspended attorney. The notice shall be in writing and provided~~
1700 ~~to the client before the disqualified or suspended attorney performs any work or provides any~~
1701 ~~services in connection with the client matter.~~

1702
1703 (H) ~~**Definition.** As used in this section, "disqualified attorney" means a former~~
1704 ~~attorney who has been disbarred or who has resigned with discipline pending.~~

1705
1706 **Section 18. Interim Suspension for a Felony Conviction or Default Under a Child**
1707 **Support Order.**

1708
1709 **(A)(1) Interim Suspension.** A judicial officer or an attorney admitted to the practice of
1710 law in Ohio shall be subject to an interim suspension under either of the following
1711 circumstances:

1713 (a) The judicial officer or attorney is convicted in Ohio of a felony or of an
1714 equivalent offense under the laws of any other state or federal jurisdiction;

1715
1716 (b) A final and enforceable determination has been made pursuant to Chapter 3123.
1717 of the Revised Code that the judicial officer or attorney is in default under a child support order.
1718

1719 (2) A certified copy of the judgment entry of conviction of a judicial officer or an
1720 attorney of a felony offense shall be transmitted by the judge entering the judgment to the
1721 director of the Board and to the Disciplinary Counsel or the president, secretary, or chair of the
1722 geographically appropriate certified grievance committee. A certified copy of the court or child
1723 support enforcement agency determination that a judicial officer or attorney is in default under a
1724 child support order shall be transmitted as provided in R.C. 4705.021.
1725

1726 (3) Upon receipt from any source of a certified copy of the judgment entry of
1727 conviction or of the determination of default under a child support order, the director promptly
1728 shall submit the entry or determination to the Supreme Court. The entry shall be submitted
1729 whether the conviction resulted from a plea of guilty or nolo contendere, from a verdict after
1730 trial, or otherwise and regardless of the pendency of an appeal.
1731

1732 (4) The Supreme Court may enter an order as it considers appropriate, including an
1733 order immediately suspending the judicial officer or attorney from the practice of law pending
1734 further proceedings pursuant to these rules.
1735

1736 **(B) Conclusive Evidence.** A certified copy of a judgment entry of conviction of an
1737 offense or of a determination of default under a child support order shall be conclusive evidence
1738 of the commission of that offense or of the default in any disciplinary proceedings instituted
1739 against a judicial officer or an attorney based upon the conviction or default.
1740

1741 **(C) Time for Hearing.** Any disciplinary proceeding instituted against a judicial
1742 officer or an attorney based on a conviction of an offense or on default under a child support
1743 order shall not be brought to hearing until all appeals from the conviction or proceedings directly
1744 related to the default determination are concluded.
1745

1746 **(D)(1) Reinstatement.** A judicial officer or an attorney suspended under this rule or
1747 Rule II of the Supreme Court Rules for the Government of the Judiciary of Ohio shall be
1748 reinstated by the Supreme Court upon the filing with and submission to the Supreme Court by
1749 the director of any of the following:
1750

1751 (a) A certified copy of a judgment entry reversing the conviction of the offense;
1752

1753 (b) A certified copy of a judgment entry reversing the determination of default under
1754 a child support order;
1755

1756 (c) A notice from a court or child support enforcement agency that the judicial officer
1757 or attorney is no longer in default under a child support order or is subject to a withholding or
1758 deduction notice or a new or modified child support order to collect current support or any

1759 arrearage due under the child support order that was in default and is complying with that notice
1760 or order.

1761

1762 (2) Reinstatement shall not terminate any pending disciplinary proceeding.

1763

1764 (E) Duty of Clerk on Entering Order. Upon the entry of an order suspending or
1765 reinstating a judicial officer or an attorney pursuant to this section, the clerk of the Supreme
1766 Court shall mail certified copies of the order as provided in Section 17 of this rule.

1767

1768 **Section 19. Interim Remedial Suspension.**

1769

1770 (A)(1) **Motion; Response.** Upon receipt of substantial, credible evidence demonstrating
1771 that a judicial officer or attorney has committed a violation of the Code of Judicial Conduct or
1772 Ohio Rules of Professional Conduct and poses a substantial threat of serious harm to the public,
1773 the Disciplinary Counsel or appropriate certified grievance committee, which shall be referred to
1774 as the relator, shall do both of the following:

1775

1776 (a) Prior to filing a motion for an interim remedial suspension, make a reasonable
1777 attempt to provide the judicial officer or attorney, who shall be referred to as the respondent,
1778 with notice, which may include notice by telephone, that a motion requesting an order for an
1779 interim remedial suspension will be filed with the Supreme Court.

1780

1781 (b) File a motion with the Supreme Court requesting that the Court order an interim
1782 remedial suspension. The Disciplinary Counsel or appropriate Certified Grievance Committee
1783 shall include, in its motion, proposed findings of fact, proposed conclusions of law, and other
1784 information in support of the requested order. Evidence relevant to the requested order shall be
1785 attached to or filed with the motion. The motion may include a request for an immediate, interim
1786 remedial suspension pursuant to the Rules of Practice of the Supreme Court of Ohio. The
1787 motion shall include a certificate detailing the attempts made by the relator to provide advance
1788 notice to the respondent of the relator's intent to file the motion. The motion also shall include a
1789 certificate of service on the respondent at the most recent address provided by the respondent to
1790 the attorney registration office and at the last address of the respondent known to the relator, if
1791 different.

1792

1793 (2) After the filing of a motion for an interim remedial suspension, the respondent
1794 may file a memorandum opposing the motion in accordance with the Rules of Practice of the
1795 Supreme Court of Ohio. The respondent shall attach to or file with the memorandum any
1796 rebuttal evidence.

1797

1798 (B) **Order.** Upon consideration of the motion and any memorandum opposing the
1799 motion, the Supreme Court may enter an interim remedial order immediately suspending the
1800 respondent, pending final disposition of disciplinary proceedings predicated on the conduct
1801 threatening the serious harm or may order other action as the Court considers appropriate. If
1802 requested by the relator, the Supreme Court may order an immediate interim remedial
1803 suspension, prior to receipt of a memorandum opposing the relator's motion, pursuant to the
1804 Rules of Practice of the Supreme Court of Ohio. If an order is entered pursuant to this division,

1805 an attorney may be appointed pursuant to Section 26 of this rule to protect the interest of the
1806 suspended attorney's clients.

1807
1808 **(C)(1) Motion for Dissolution or Modification of the Suspension.** The respondent
1809 may request dissolution or modification of the order of suspension by filing a motion with the
1810 Supreme Court. The motion shall be filed within thirty days of entry of the order imposing the
1811 suspension, unless the respondent first obtains leave of the Supreme Court to file a motion
1812 beyond that time. The motion shall include a statement and all available evidence as to why the
1813 respondent no longer poses a substantial threat of serious harm to the public. A copy of the
1814 motion shall be served by the respondent on the relator. The relator shall have ten days from the
1815 date the motion is filed to file a response to the motion. The Supreme Court promptly shall
1816 review the motion after a response has been filed or after the time for filing a response has
1817 passed.

1818
1819 **(2)** In addition to the motion allowed by division (C)(1) of this section, the
1820 respondent may file a motion requesting dissolution of the interim remedial suspension order,
1821 alleging that one hundred eighty days have elapsed since the entry of the order and the relator
1822 has failed to file with the Board a formal complaint predicated on the conduct that was the basis
1823 of the order. A copy of the motion shall be served by the respondent on the relator. The relator
1824 shall have ten days from the date the motion is filed to file a response to the motion. The
1825 Supreme Court promptly shall review the motion after a response has been filed or after the time
1826 for filing a response has passed.

1827
1828 **(D) Procedure.** The Rules of Practice of the Supreme Court of Ohio shall apply to
1829 interim remedial suspension proceedings filed pursuant to this section.

1830
1831 **(E) Duty of Clerk on Entering Order.** Upon the entry of an order suspending or
1832 reinstating the respondent pursuant to this section, the clerk of the Supreme Court shall mail
1833 certified copies of the order as provided in Section 17 of this rule.

1834
1835 **Section 20. Reciprocal Discipline.**

1836
1837 **(A) Notification of Disciplinary Action.** Within thirty days of the issuance of a
1838 disciplinary order in another jurisdiction, an attorney admitted to the practice of law in Ohio shall
1839 provide written notification to the Disciplinary Counsel and the clerk of the Supreme Court of
1840 the action. Upon receiving notice from the attorney or another party that an attorney admitted to
1841 the practice of law in Ohio has been subjected to discipline in another jurisdiction, the
1842 Disciplinary Counsel shall obtain a certified copy of the disciplinary order and file the copy with
1843 the clerk of the Supreme Court.

1844
1845 **(B)(1) Show Cause Order.** Upon receipt of a certified copy of an order demonstrating
1846 that an attorney admitted to the practice of law in Ohio has been subjected to discipline in
1847 another jurisdiction, the Supreme Court shall issue a notice directed to the attorney containing
1848 both of the following:

1849
1850 **(a)** A copy of the order from the other jurisdiction;

1851
1852 (b) An order directing that the attorney notify the Supreme Court, within twenty days
1853 from the service of notice, of any claim by the attorney predicated upon the grounds set forth in
1854 division (D) of this section that the imposition of the identical or comparable discipline in Ohio
1855 would be unwarranted and the reasons for that claim.

1856
1857 (2) If the attorney files a response to a show cause order, Disciplinary Counsel or a
1858 certified grievance committee may file a reply to the response within fifteen days.

1859
1860 **(C) Disposition.**

1861
1862 (1) After service of the notice issued pursuant to division (B)(1) of this section, the
1863 Supreme Court shall impose the identical or comparable discipline imposed in the other
1864 jurisdiction, unless the attorney proves either of the following by clear and convincing evidence:

1865
1866 (a) A lack of jurisdiction or fraud in the other jurisdiction's disciplinary proceeding;

1867
1868 (b) That the misconduct established warrants substantially different discipline in
1869 Ohio.

1870
1871 (2) Reciprocal discipline may be imposed even if the term of the attorney's discipline
1872 in the other jurisdiction has expired. In determining whether to impose reciprocal discipline after
1873 the attorney's discipline in the other jurisdiction has expired, the Supreme Court may consider
1874 whether the attorney provided timely written notification pursuant to division (A) of this section
1875 and, if the attorney delayed in providing written notification, whether the delay in notification
1876 was caused by factors beyond the attorney's control.

1877
1878 (3) Reciprocal discipline shall be effective on the date it is announced by the
1879 Supreme Court.

1880
1881 **(D) Res Judicata.** In all other respects, a final adjudication in another jurisdiction
1882 that an attorney has been subjected to discipline shall establish conclusively the misconduct for
1883 purposes of a disciplinary proceeding in Ohio.

1884
1885 **(E) Enhancement of Sanction.** If an attorney fails to report to the Disciplinary
1886 Counsel and to the clerk of the Supreme Court that he or she has been subjected to discipline in
1887 another jurisdiction, the Supreme Court may enhance the sanction that it would have imposed
1888 had the attorney complied with division (A) of this section.

1889
1890 **(F) Court Discretion.** The Supreme Court may make its determination under this
1891 section from the pleadings filed, or may permit or require briefs or a hearing or both.

1892
1893 **Section 921. Probation Procedures**

1894
1895 **(A) Supervision.** If the disciplinary order entered by the Supreme Court imposes a
1896 term of probation, the relator shall do all of the following:

- 1897
- 1898 (1) Supervise the term and conditions of probation;
- 1899
- 1900 (2) Maintain the probation file;
- 1901
- 1902 (3) Appoint, in any manner it considers appropriate, one or more monitoring
- 1903 attorneys who are admitted to the practice of law in Ohio and in good standing and are not
- 1904 members of a certified grievance committee or counsel for the relator and select one or more
- 1905 replacement monitoring attorneys, if necessary;
- 1906
- 1907 (4) Receive reports from the monitoring attorneys;
- 1908
- 1909 (5) Investigate reports of probation violations.
- 1910
- 1911 (6) If the probation involves recovery from substance ~~abuse~~ use disorder, select as
- 1912 one of the monitoring attorneys a person designated by a committee or subcommittee of a bar
- 1913 association, or by a non-profit corporation established by a bar association, designed to assist
- 1914 lawyers with substance ~~abuse—problems~~ use disorders, which person shall satisfy the
- 1915 requirements of division (A)(3) of this section and who shall monitor compliance with only that
- 1916 portion of the term of probation involving recovery from substance ~~abuse~~ use disorder.
- 1917
- 1918 **(B) Monitoring.** The monitoring attorney shall, with respect to those aspects of the
- 1919 terms of probation assigned to that attorney, do all of the following:
- 1920
- 1921 (1) Monitor compliance by the respondent with the conditions of probation imposed
- 1922 by the Supreme Court;
- 1923
- 1924 (2) File with the relator, at least quarterly or as otherwise determined by the relator,
- 1925 written, certified reports regarding the status of the respondent and compliance with the
- 1926 conditions of probation;
- 1927
- 1928 (3) Immediately report to the relator any violations by the respondent of the
- 1929 conditions of probation.
- 1930
- 1931 **(C) Duties of Respondent.** The respondent shall do all of the following:
- 1932
- 1933 (1) Have a personal meeting with the monitoring attorneys at least once each month
- 1934 during the first year of probation, and at least quarterly thereafter, unless the monitoring
- 1935 attorneys require more frequent meetings;
- 1936
- 1937 (2) Provide the monitoring attorneys with a written release or waiver, on a form
- 1938 approved by the Board, for use in verifying compliance regarding medical, psychological,
- 1939 substance ~~abuse~~ use disorder, or other treatment and attendance at self-help programs;
- 1940
- 1941 (3) Cooperate fully with the efforts of each monitoring attorney to monitor the
- 1942 respondent's compliance.

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(D) Termination of Probation. At the expiration of the probation period, the respondent shall apply for termination of probation. The application shall be in writing and filed with the clerk of the Supreme Court. The application shall indicate the date probation was ordered, include an affidavit by respondent stating that the respondent has complied with the conditions of probation, indicate whether any formal disciplinary proceedings are pending against the respondent, and request termination of probation. The Supreme Court shall order the termination of probation if all costs of the proceedings as ordered by the Supreme Court have been paid, the respondent has complied with the conditions of probation, and no formal disciplinary proceedings are pending against the respondent. The clerk of the Supreme Court shall provide notice of the termination of probation to all persons and organizations who received copies of the disciplinary order pursuant to Section ~~8(D)(1)~~17 of this rule.

(E) Violation of Probation; Authority and Duty of Relator. The relator immediately shall investigate any report of a violation of the conditions of probation by the respondent. If it finds probable cause to believe that a significant or continuing violation of the conditions of probation has occurred, it shall notify the respondent of the report of probation violation and provide an opportunity to respond to the report. Thereafter, if warranted, the relator shall file a petition for the revocation of probation, reinstatement of any stayed suspension, and citation for contempt with the Secretary director of the Board within thirty days after its receipt of the report, in the same manner as provided in Section ~~4(I)(8)~~10 of this rule. If, upon investigation of a report of a violation of probation, the relator determines that the filing of a petition for revocation of probation with the Secretary director of the Board is not warranted, the person reporting the alleged violation of probation shall be notified in writing of that determination.

(F) Duty of the Board upon Filing of Petition. Upon receipt of a petition for revocation of probation, the Secretary director of the Board shall send a copy of the petition by certified mail to the respondent with a notice requiring the respondent to file, within ten days after the mailing of the notice, six copies of the respondent's answer and serve copies on counsel of record. Extensions of time for the filing of the answer may be granted by the Secretary director of the Board for good cause shown.

(G) Hearing by Panel; Motion for Default.

(1) After the respondent has filed an answer, a formal hearing shall be held by a panel of three ~~members of the Board~~ commissioners appointed in the same manner as provided in Section ~~6(D)(3)~~ 12 of this rule. The panel shall conduct a hearing only on the issue of probation violation within thirty days after the answer date set forth in the notice to the respondent of the filing of the petition or any extension of the answer date.

(2) If no answer has been filed by the respondent within ten days after the answer date set forth in the notice to the respondent of the filing of the petition or any extension of the answer date, relator shall file a motion for default in accordance with Section ~~6(F)~~14 of this rule. If a motion for default is granted, the panel forthwith shall make its certified report to the Supreme Court, pursuant to division (H) of this section.

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(H) Certification of Panel Report. If the panel determines by clear and convincing evidence that the respondent is guilty of a significant or continuing violation of the conditions of probation, the panel shall make a certified report of the proceedings before it, including findings of fact and recommendations, and shall file the report, together with the transcript of testimony taken or, in the case of a default, the documentary evidence received, and an itemized statement of the actual and necessary expenses incurred in connection with the proceedings, with the clerk of the Supreme Court. The panel promptly shall notify the respondent and all counsel of record of its action, enclosing with the notice a copy of the findings of fact and recommendations and a copy of the statement of the actual and necessary expenses incurred. If the panel finds that the evidence is insufficient to support a charge of a violation of probation, the panel shall order that the petition for revocation of probation be dismissed. The panel shall report its action to the Secretary director of the Board who shall give written notice of the action taken to those persons and organizations identified in Section ~~6(H)~~ 12 of this rule.

(I) Reinstatement of Stayed Suspension. On the filing of the final certified report by the panel, the Supreme Court may issue to the respondent an order reinstating any period of suspension previously stayed by the Supreme Court, pending the entry of a final order by the Supreme Court. Notice of an order reinstating any period of suspension previously stayed shall be served personally or by certified mail by the clerk of the Supreme Court on the respondent and all counsel of record.

(J) Show Cause Order; Objections; Answer Briefs. On the filing of the final certified report of the panel, the Supreme Court shall issue to the respondent an order to show cause in accordance with Section ~~8(A)~~ 17 of this rule. Any response or objections to the order to show cause, and any answer briefs, shall be filed in accordance with ~~Sections 8(B) and (C)~~ 17 of this rule.

(K) Review by Court. After a hearing on objections, or if objections are not filed within the prescribed time, the Supreme Court shall enter an order as it finds proper in accordance with Section ~~8(D)~~ 17 of this rule. If the Supreme Court finds that the respondent has not violated the conditions of probation, the Supreme Court shall issue an order that does all of the following:

- (1) Dismisses the matter;
- (2) Reinstates the respondent to the practice of law, if the Supreme Court suspended the respondent pursuant to division (I) of this section;
- (3) Reinstates any remaining period of probation, subject to any full or partial credit allowed by the Supreme Court for any period of suspension imposed under division (I) of this section.

(L) Reimbursement of Expenses. A monitoring attorney may be reimbursed from the Attorney ~~Registration~~ Services Fund for direct expenses incurred by the monitoring attorney in performing the obligations imposed on the monitoring attorney by this section.

2035 Reimbursement shall be limited to necessary costs for copies of documents, travel expenses,
2036 postage, and long distance telephone charges. No reimbursement shall be allowed for the cost of
2037 the time of the monitoring attorney or other personnel in discharging these obligations.
2038 Reimbursement shall be made on submission to the Secretary director of the Board of proof of
2039 expenditures.

2040

2041 **Section 22. Duties of a Disbarred or Suspended Attorney.**

2042

2043 **(A) Content of Supreme Court Order.** In its order disbarring or suspending an
2044 attorney or in any order pertaining to the resignation of an attorney, the Supreme Court shall
2045 include a time limit, not to exceed thirty days, within which the disqualified attorney shall do all
2046 of the following:

2047

2048 (1) Notify all clients being represented in pending matters and any co-counsel of his
2049 or her disbarment, suspension, or resignation and consequent disqualification to act as an
2050 attorney after the effective date of the order, and, in the absence of co-counsel, notify the clients
2051 to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of
2052 another attorney in his or her place;

2053

2054 (2) Regardless of any fees or expenses due the attorney, deliver to all clients being
2055 represented in pending matters any papers or other property pertaining to the client, or notify the
2056 clients or co-counsel, if any, of a suitable time and place where the papers or other property may
2057 be obtained, calling attention to any urgency for obtaining the papers or other property;

2058

2059 (3) Refund any part of any fees or expenses paid in advance that are unearned or not
2060 paid, and account for any trust money or property in his or her possession or control;

2061

2062 (4) Notify opposing counsel in pending litigation or, in the absence of counsel, the
2063 adverse parties, of his or her disqualification or resignation to act as an attorney after the
2064 effective date of the disqualification order, and file a notice of disqualification of counsel with
2065 the court or agency before which the litigation is pending for inclusion in the respective file or
2066 files.

2067

2068 **(B) Disqualified Attorney Address.** All notices required by a disciplinary order of
2069 the Supreme Court shall be sent by certified mail and contain a return address where
2070 communications may be directed to the disqualified attorney.

2071

2072 **(C) Affidavit.** Within the time limit prescribed by the Supreme Court, the
2073 disqualified attorney shall file with the clerk of the Supreme Court and the Disciplinary Counsel
2074 an affidavit showing compliance with the order entered pursuant to this rule and proof of service
2075 of notices required by the order. The affidavit also shall set forth the address where the affiant
2076 may receive communications and the disqualified attorney shall inform the clerk and the
2077 Disciplinary Counsel of any subsequent change in address.

2078

2079 **(D) Proof of Compliance.** A disqualified attorney shall maintain a record of the
2080 various steps taken pursuant to the order entered by the Supreme Court so that, in any subsequent
2081 proceeding, proof of compliance with the order will be available for receipt in evidence.
2082

2083 **Section 23. Employment of a Disqualified or Suspended Attorney.**
2084

2085 **(A) General Prohibitions.** A disqualified or suspended attorney shall not do either of
2086 the following:
2087

2088 (1) Have any direct client contact, other than serving as an observer in any meeting,
2089 hearing or interaction between an attorney and a client;
2090

2091 (2) Receive, disburse, or otherwise handle client trust funds or property.
2092

2093 **(B) Prohibited Relationships.** On or after September 1, 2008, a disqualified attorney
2094 shall not enter into an employment, contractual, or consulting relationship with an attorney or
2095 law firm with which the disqualified attorney was associated as a partner, shareholder, member,
2096 or employee at the time the attorney engaged in misconduct that resulted in his or her
2097 disqualification from the practice of law.
2098

2099 **(C) Registration of Relationship.** An attorney or law firm seeking to enter into an
2100 employment, contractual, or consulting relationship with a disqualified or suspended attorney
2101 shall register the employment, contractual, or consulting relationship with the Office of
2102 Disciplinary Counsel. The registration shall be on a form provided by the Office of Disciplinary
2103 Counsel and shall include all of the following:
2104

2105 (1) The name of and contact information for the disqualified or suspended attorney;
2106

2107 (2) The name of and contact information for the attorney or law firm seeking to enter
2108 into the relationship with the disqualified or suspended attorney;
2109

2110 (3) The name of and contact information for the attorney responsible for directly
2111 supervising the disqualified or suspended attorney, if different than the attorney identified in
2112 division (C)(2) of this section;
2113

2114 (4) The capacity in which the disqualified or suspended attorney will be employed,
2115 including a description of duties to be performed or services to be provided;
2116

2117 (5) An affidavit executed by either the attorney filing the registration or the
2118 supervising attorney indicating that the attorney has read the Supreme Court's order disbaring,
2119 accepting the resignation of, or suspending the attorney to be employed and understands the
2120 limitations contained in that order;
2121

2122 (6) Any other information considered necessary by the Office of Disciplinary
2123 Counsel.
2124

2125 **(D) Written Acknowledgement.** Upon receipt of a completed registration form, the
2126 Office of Disciplinary Counsel shall send a written acknowledgement to the attorney or law firm
2127 that filed the registration form and any supervising attorney identified on the form. Upon receipt
2128 of the written acknowledgement, the employment, contractual, or consulting relationship may
2129 commence.

2130
2131 **(E) Amendments to Registration.** An attorney who registers the employment of a
2132 disqualified or suspended attorney shall file an amended registration form with the Office of
2133 Disciplinary Counsel when there is any material change in the information provided on a prior
2134 registration form and shall notify the Office of Disciplinary Counsel upon termination of the
2135 employment, contractual, or consulting relationship.

2136
2137 **(F) Notice to Clients.** If a disqualified or suspended attorney will perform work or
2138 provide services in connection with any client matter, the employing attorney or law firm shall
2139 inform the client of the status of the disqualified or suspended attorney. The notice shall be in
2140 writing and provided to the client before the disqualified or suspended attorney performs any
2141 work or provides any services in connection with the client matter.

2142
2143 **Section 40 24. Reinstatement Proceedings; Term or Interim Suspension.**

2144
2145 **(A)(1) Suspension; Reinstatement from a Term or Interim Suspension.** Upon the
2146 dissolution of an interim remedial suspension imposed pursuant to Section 5a 19 of this rule or
2147 expiration of a suspension for a period of six months to two years, including any period that the
2148 order of the Supreme Court has allowed as a credit for a suspension imposed under Section 5 18
2149 of this rule, the respondent may apply for reinstatement to the practice of law. The application
2150 shall be in writing and ~~twelve copies shall be~~ filed with the clerk of the Supreme Court **with the**
2151 **number of copies required by the Rules of Practice of the Supreme Court of Ohio.** The
2152 application shall include the date the suspension was ordered and a request for reinstatement.
2153 The application shall be accompanied by an affidavit executed by the respondent indicating all of
2154 the following:

2155
2156 ~~(a)~~(1) Whether any formal disciplinary proceedings are pending against the respondent;

2157
2158 ~~(b)~~(2) Whether the respondent has completed a term of probation, community control,
2159 intervention in lieu of conviction, or any sanction imposed as part of a sentence for a felony
2160 conviction;

2161
2162 ~~(c)~~(3) Whether the respondent has complied with the continuing legal education
2163 requirements of Gov. Bar R. X, ~~Section 3(G).~~

2164
2165 ~~(2)~~**(B) Conditions for Reinstatement.** The Supreme Court shall order the respondent
2166 reinstated if all of the following conditions are satisfied:

2167
2168 ~~(a)~~(1) All costs of the proceedings as ordered by the Supreme Court have been paid;

2169
2170 ~~(b)~~(2) The respondent has complied with the order of suspension;

2171
2172 ~~(e)~~(3) The respondent has complied with the continuing legal education requirements of
2173 Gov. Bar R. X, ~~Section 3(G)~~;

2174
2175 ~~(d)~~(4) No formal disciplinary proceedings are pending against the respondent;

2176
2177 ~~(e)~~(5) The respondent has completed a term of probation, community control,
2178 intervention in lieu of conviction, or any sanction imposed as part of a sentence for a felony
2179 conviction.

2180
2181 ~~(3)~~**(C) Reinstatement Prior to Completion of Probation or Other Sanction.**

2182 Notwithstanding the requirement of division ~~(A)(2)(e)~~ ~~(B)(5)~~ of this section, the respondent may
2183 apply for reinstatement prior to completing a term of probation, community control, intervention
2184 in lieu of conviction, or sanction imposed as part of a sentence for a felony conviction if the
2185 disciplinary order issued pursuant to ~~Gov. Bar R. V, Section 8(D)~~ 17 authorizes such an
2186 application. If an application is authorized, the application shall be in the form and content
2187 specified in division ~~(A)(4)~~ of this section and shall include an affidavit from the trial judge,
2188 dated not more than thirty days prior to the date the application is filed, as evidence that the
2189 respondent is in compliance with the terms and conditions of probation, community control,
2190 intervention in lieu of conviction, or sanction imposed as part of a sentence for a felony
2191 conviction.

2192
2193 ~~(4)~~**(D) Notice.** The clerk of the Supreme Court shall provide notice of the reinstatement
2194 to all persons or organizations who received copies of the Supreme Court disciplinary order of
2195 suspension pursuant to Section 17 of this rule.

2196
2197 **Section 25. Reinstatement Proceedings; Indefinite Suspension.**

2198
2199 ~~(B)~~**(A) Petition for Reinstatement from an Indefinite Suspension.** No petition for
2200 reinstatement to the practice of law may be filed or entertained by the Supreme Court within two
2201 years of either of the following:

2202
2203 (1) The entry of an order suspending the petitioner from the practice of law for an
2204 indefinite period, including any period that the order of the Supreme Court imposing the
2205 suspension has allowed as a credit for a suspension imposed under Section 5 18 of this rule;

2206
2207 (2) The denial of a petition for reinstatement to the practice of law filed by the
2208 petitioner.

2209
2210 ~~(C)~~**(B) Contents of Petition for Reinstatement.** Except as provided in division ~~(B)~~ ~~(A)~~
2211 of this section, a person who has been suspended from the practice of law for an indefinite period
2212 and who wishes to be reinstated may file with the clerk of the Supreme Court a verified petition
2213 and twenty and the number of copies of the petition with the Clerk of the Supreme Court as
2214 required by the Rules of Practice of the Supreme Court of Ohio. The petition shall include all of
2215 the following:

2216

2217 (1) The date on which the suspension was ordered and, if there was a reported
2218 opinion, ~~the volume and page of the *Ohio Official Reports* where~~ a citation to the opinion
2219 appears;

2221 (2) The dates on which all prior petitions for reinstatement were filed and denied or
2222 granted;

2223
2224 (3) The names of all persons and organizations, except the petitioner and the Board,
2225 who were or would be entitled under this rule to receive from the clerk of the Supreme Court
2226 certified copies of the disciplinary order of the Supreme Court against petitioner resulting in his
2227 or her suspension, the name of the bar association of the county or counties in which he or she
2228 resides at the time of the filing of the petition and of each county in which he or she proposes to
2229 maintain an office if reinstated, and the Ohio State Bar Association;

2230
2231 (4) ~~A statement that~~ An affidavit executed by the petitioner indicating whether the
2232 petitioner has any formal disciplinary proceedings pending, has complied with the continuing
2233 legal education requirements of Gov. Bar R. X, ~~Section 3(G);~~ ~~(5) A statement that the petitioner,~~
2234 and has completed a term of probation, community control, intervention in lieu of conviction, or
2235 any sanction imposed as part of a sentence for a felony conviction;

2236
2237 ~~(6)(5)~~ (5) The facts upon which the petitioner relies to establish by clear and convincing
2238 evidence that he or she possesses all the mental, educational, and moral qualifications that were
2239 required of an applicant for admission to the practice of law in Ohio at the time of his or her
2240 original admission and that he or she is now a proper person to be readmitted to the practice of
2241 law in Ohio, notwithstanding the previous disciplinary action.

2242
2243 ~~(D)(C)~~ **(C) Costs to be Deposited with Petition for Reinstatement.** A petition for
2244 reinstatement shall be accompanied by a deposit, in an amount fixed by the clerk, for probable
2245 costs and expenses to be incurred in connection with the proceedings. The costs shall include
2246 any amounts unpaid under any prior order of the Supreme Court and any amounts owed to the
2247 Clients' Security Fund of Ohio for reimbursement of an award made pursuant to Gov. Bar R.
2248 VIII as the result of petitioner's misconduct.

2249
2250 ~~(E)(D)~~ **(1) Requisites for Reinstatement.** The petitioner shall not be reinstated
2251 unless he or she establishes all of the following by clear and convincing evidence to the
2252 satisfaction of the panel hearing the petition for reinstatement:

2253
2254 (a) That the petitioner has made appropriate restitution to the persons who were
2255 harmed by his or her misconduct;

2256
2257 (b) That the petitioner possesses all of the mental, educational, and moral
2258 qualifications that were required of an applicant for admission to the practice of law in Ohio at
2259 the time of his or her original admission;

2260
2261 (c) That the petitioner has complied with the order of suspension;

2262

2263 (d) That the petitioner has complied with the continuing legal education requirements
2264 of Gov. Bar R. X, ~~Section 3(G)~~;

2265
2266 ~~(d)~~(e) That the petitioner has completed a term of probation, community control,
2267 intervention in lieu of conviction, or any sanction imposed as part of a sentence for a felony
2268 conviction;

2269
2270 ~~(e)~~(f) That the petitioner is now a proper person to be readmitted to the practice of law
2271 in Ohio, notwithstanding the previous disciplinary action.

2272
2273 (2) Notwithstanding provisions of this section to the contrary, the petitioner may file
2274 and the Board may consider a reinstatement petition from a petitioner prior to completing a term
2275 of probation, community control, intervention in lieu of conviction, or any sanction imposed as
2276 part of a sentence for a felony conviction. In addition to the requirements of division ~~(C)~~(B) of
2277 this section, the reinstatement petition shall include an affidavit from the trial judge, dated not
2278 more than thirty days prior to the date the petition is filed, as evidence that the respondent is in
2279 compliance with the terms and conditions of probation, community control, intervention in lieu
2280 of conviction, or sanction imposed as part of a sentence for a felony conviction and shall include
2281 the facts upon which the petitioner relies to establish by clear and convincing evidence that the
2282 petitioner should be reinstated to the practice of law in Ohio while subject to a term of probation,
2283 community control, intervention in lieu of conviction, or sanction imposed as part of a sentence
2284 for a felony conviction. The Board shall not recommend reinstatement of the petitioner unless it
2285 finds by clear and convincing evidence that good cause exists for waiving the reinstatement
2286 requirement of division ~~(E)~~(D)(1)(d) of this section and details that finding in its final report.

2287
2288 ~~(F)~~(E) **Petition for Reinstatement Referred to Board.** Unless denied forthwith for
2289 insufficiency in form or substance, the clerk shall forward five copies of the petition to the
2290 ~~Secretary~~ director of the Board. The Board shall conduct a hearing or hearings and take and
2291 report evidence relevant to the rehabilitation of the petitioner and his or her possession of all the
2292 mental, educational, and moral qualifications required of an applicant for admission to the
2293 practice of law in Ohio at the time of his or her original admission.

2294
2295 ~~(G)~~(F) **Hearing of Petition; Appeal.**

2296
2297 (1) **Appointment of Panel.** The ~~Secretary~~ director, by lot, shall appoint a hearing
2298 panel of three ~~board members~~ commissioners, none of whom shall be a resident of the appellate
2299 district in which the petitioner resides or of the appellate district in which the petitioner resided at
2300 the time of suspension. The ~~Secretary~~ director shall appoint an attorney or judge ~~member~~
2301 commissioner as chair of the panel, and the panel shall conduct a hearing ~~or hearings upon~~ on the
2302 petition.

2303
2304 (2) **Notice; Hearing.** The Board shall provide reasonable notice of any hearing to the
2305 petitioner or counsel for the petitioner and to all persons or organizations referred to in division
2306 ~~(C)~~(B)(3) of this section. Hearings shall be public and any interested person, member of the bar,
2307 and the Disciplinary Counsel may appear before the hearing panel in support of or opposition to
2308 the petition.

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(3) Referral to Disciplinary Counsel. If a certified grievance committee of a bar association referred to in division ~~(C)~~(B)(3) of this section determines that matters relating to petitioner’s qualifications for reinstatement are sufficiently serious and complex as to require the assistance of Disciplinary Counsel, the chair of the committee shall direct a written request for assistance to the Disciplinary Counsel. The Disciplinary Counsel shall investigate all referred matters and report the results of the investigation to the committee that requested it.

(4) Panel Report. The hearing panel shall make and certify a report to the Board of the proceedings before it, including its findings of fact and recommendations. All proceedings before the panel and the Board, whenever appropriate, shall be governed by the provisions of this rule governing disciplinary proceedings, including proceedings in the Supreme Court for an issuance of an order to show cause why the final report of the Board should not be confirmed.

(5) Conditional Grant; Denial; Appeal. The Board may recommend that the petitioner be required to take and pass a regular bar examination of the Supreme Court as a condition to readmission. If the final report recommends denial of the petition, the petitioner shall have ~~ten~~ **twenty** days from receipt of notice of the date of filing the report to file objections and a brief in support of the objections.

(6) Grant of Petition; Appeal. If the final report recommends granting the petition, any person or organization referred to in division ~~(C)~~(B)(3) of this section shall have ~~ten~~ **twenty** days from the receipt of notice of filing of the report to file objections to the recommendations and a brief in support of the objections. The Supreme Court shall enter an appropriate order, ~~which that~~ **which that** may include provisions for reimbursement of the costs and expenses incurred in connection with the proceedings. The order of reinstatement may be subject to conditions the Supreme Court considers appropriate including, but not limited to, requiring the petitioner to serve a period of probation under ~~Gov. Bar R. V~~ **Section 21 of this rule** on conditions the Supreme Court determines and requiring the petitioner to subsequently take and pass a regular bar examination of the Supreme Court and take the oath of office.

Section 26. Appointed Attorney to Inventory Files.

Whenever an attorney is suspended for mental illness or substance use disorder pursuant to Section 15 of this rule or cannot be found in the jurisdiction for a period of sixty days or more or such shorter time as ordered by the Supreme Court, dies, refuses to meet or work with a significant number of clients for a period of sixty days or more, or fails to comply with Section 22 of this rule, and no partner, executor, or other responsible party capable of conducting the attorney’s affairs is available and willing to assume appropriate responsibility, the Disciplinary Counsel or chair of a certified grievance committee may appoint an attorney to inventory the files of the attorney and take action, including the actions set forth in Section 22, as is necessary to protect the interest of clients of the attorney. Prior to appointment, the chair of a certified grievance committee shall submit a written request to the director of the Board for approval of the appointment and the fees to be charged by the appointed attorney. The appointed attorney shall submit an invoice, signed by the chair of the certified grievance committee, to the director of the Board for payment of fees. Upon receipt of a proper invoice, the director shall pay the

2355 fees from the Attorney Services Fund. Except as necessary to carry out the order of appointment
2356 by the Disciplinary Counsel or chair of a certified grievance committee, the appointed attorney
2357 or attorneys shall not disclose any information contained in inventoried files without the written
2358 consent of the client to whom the files relate. An appointed attorney may not represent that
2359 client.

2360
2361 **Section 11 27. Applicability of Rules; Regulations; Special Service; Contempt;**
2362 **Confidentiality; Reciprocal Discipline.**

2363
2364 **(A) Applicability of Rules; Regulations of Board.** (1) The Board and hearing
2365 panels shall follow the Ohio Rules of Civil Procedure and the Ohio Rules of Evidence wherever
2366 practicable unless a specific provision of this rule or Board hearing procedures and guidelines
2367 provides otherwise.

2368
2369 (2) ~~With the prior approval of the Supreme Court, the Board may adopt regulations~~
2370 ~~consistent with this rule.~~

2371
2372 (3) ~~With the prior approval of the Supreme Court, the Board shall adopt regulations~~
2373 ~~that contain all of the following:~~

2374
2375 (a) ~~Procedures for regularly reviewing the performance of Certified Grievance~~
2376 ~~Committees, identifying Certified Grievance Committees that are not in compliance with the~~
2377 ~~standards set forth in this rule, and for decertifying a Certified Grievance Committee that fails to~~
2378 ~~improve its performance after being notified of noncompliance;~~

2379
2380 (b) ~~Time guidelines for the processing of disciplinary cases pending before the Board~~
2381 ~~and panels of the Board;~~

2382
2383 (c) ~~Procedures to allow the Board to make a recommendation of discipline, other than~~
2384 ~~an indefinite suspension or disbarment, where the Disciplinary Counsel or Certified Grievance~~
2385 ~~Committee and the respondent enter into a written agreement in which the respondent admits to~~
2386 ~~the existence of a disciplinary violation.~~

2387
2388 **(B) Clerk is Agent for Service of Notices on Nonresident Justice, Judge, Judicial**
2389 **Officer or Attorney.** Any nonresident of this state, having been admitted as an attorney by the
2390 rules of the Supreme Court, or any resident of this state, having been admitted as an attorney by
2391 the rules of the Supreme Court, who subsequently becomes a nonresident or conceals his or her
2392 whereabouts, by such admission to the practice of law within this state makes the clerk of the
2393 Supreme Court his or her agent for the service of any notice provided for in any proceeding
2394 instituted against such ~~justice, judge, judicial officer~~ or attorney, pursuant to this rule.

2395
2396 **(C) Effect of Refusal to Testify.** The refusal or neglect of a person subpoenaed as a
2397 witness to obey a subpoena, to attend, to be sworn or to affirm, or to answer any proper question
2398 shall be considered a contempt of the Supreme Court and shall be punishable accordingly.

2399

2400 **(D) Rule to be Liberally Construed.** The process and procedure under this rule and
2401 regulations approved by the Supreme Court shall be as summary as reasonably may be.
2402 Amendments to any ~~complaint~~, notice, answer, objections, report, or order to show cause may be
2403 made at any time prior to final order of the Supreme Court. The party affected by an amendment
2404 shall be given reasonable opportunity to meet any new matter presented. No investigation or
2405 procedure shall be held to be invalid by reason of any nonprejudicial irregularity or for any error
2406 not resulting in a miscarriage of justice. This rule and regulations relating to investigation and
2407 proceedings involving complaints of misconduct and petitions for reinstatement shall be
2408 construed liberally for the protection of the public, the courts, and the legal profession and shall
2409 apply to all pending investigations and complaints so far as may be practicable and to all future
2410 investigations, complaints, and petitions whether the conduct involved occurred prior or
2411 subsequent to the amendment of this rule. To the extent that application of this amended rule to
2412 pending proceedings may not be practicable, the regulations in force at the time this amended
2413 rule became effective shall continue to apply.

2414
2415 **~~(E) Proceedings Private; Public.~~**

2416
2417 ~~(1) All proceedings and documents relating to review and investigation of grievances~~
2418 ~~made under these rules shall be private except as follows:~~

2419
2420 ~~(a) Where the respondent requests in writing that they be public;~~

2421
2422 ~~(b) Where the respondent voluntarily waives privacy of the proceedings.~~

2423
2424 ~~(c) Where the proceedings reveal reasonable cause to believe that respondent is or~~
2425 ~~may be addicted to alcohol or other chemicals, is abusing the use of alcohol or other chemicals,~~
2426 ~~or may be experiencing a mental health condition or problem that is substantially impairing the~~
2427 ~~respondent's ability to practice law, the information giving rise to this belief shall be~~
2428 ~~communicated to a committee or subcommittee of a bar association, or to an executive officer or~~
2429 ~~employee of a nonprofit corporation established by a bar association, designed to assist lawyers~~
2430 ~~with substance abuse or mental health problems.~~

2431
2432 ~~(d) Where, in the course of an investigation by the Office of Disciplinary Counsel or~~
2433 ~~a certified grievance committee, it is found that a person involved in the investigation may have~~
2434 ~~violated federal or state criminal statutes, the entity conducting the investigation shall notify the~~
2435 ~~appropriate law enforcement or prosecutorial authority of the alleged criminal violation.~~

2436
2437 ~~(2)(a) From the time a complaint has been certified to the Secretary of the Board by a~~
2438 ~~probable cause panel, the complaint and all subsequent proceedings in connection with the~~
2439 ~~complaint shall be public; except that deliberations by the panel and deliberations by the Board~~
2440 ~~shall be confidential and the recommendations of the Board shall be private until filed with the~~
2441 ~~Supreme Court.~~

2442
2443 ~~The Board approved ADR process shall be confidential. Any knowledge obtained by a~~
2444 ~~mediator or facilitator shall be privileged for all purposes under Rule 8.3 of the Ohio Rules of~~

2445 Professional Conduct, provided the knowledge was obtained while the mediator or facilitator
2446 was acting as a mediator or facilitator.

2447
2448 (b) Proceedings by a Certified Grievance Committee and Disciplinary Counsel shall
2449 be private until certified by a probable cause panel; except that deliberations by a Certified
2450 Grievance Committee, Disciplinary Counsel, panel, or Board, shall be confidential.

2451
2452 (c) As used in Section 11 of this rule, the terms “private” and “confidential” shall
2453 have the following meanings:

2454
2455 (i) “Private” acknowledges the right of the respondent to the right of privacy as to the
2456 proceedings relative to an uncertified complaint, which may be waived by the respondent as
2457 provided in Section 11(E)(1) of this rule;

2458
2459 (ii) “Confidential” acknowledges the oath of office of Section 11(E)(4) of this rule,
2460 acknowledges the necessity of confidentiality in the deliberations stage of the proceedings of the
2461 Certified Grievance Committee, Disciplinary Counsel, panel, and Board, and applies to members
2462 and employees of the Certified Grievance Committee, Disciplinary Counsel, panel, and Board,
2463 such that deliberations cannot be disclosed or waived by anyone for any reason.

2464
2465 (3) Notwithstanding the other provisions of this rule, the respondent’s reply to the
2466 grievance, made during the course of an investigation by Disciplinary Counsel or a Certified
2467 Grievance Committee, shall be furnished to the grievant without waiving any other right to
2468 privacy or confidentiality provided by this rule. If the respondent specifically requests, in
2469 writing, to the Disciplinary Counsel or Certified Grievance Committee that the reply not be
2470 furnished to the grievant, the Disciplinary Counsel or Certified Grievance Committee shall not
2471 furnish the reply to the grievant. Release to the grievant of the respondent’s reply is,
2472 nevertheless, encouraged and consistent with the liberal construction of this rule for the
2473 protection of the public stated in Section 11(D) of this rule.

2474
2475 (4) Except as otherwise provided in this section or in rules adopted by the Supreme
2476 Court, documents and records pertaining to the administration and finances of the Board and the
2477 Office of Disciplinary Counsel, including budgets, reports, and records of income and
2478 expenditures, shall be made available for inspection to any member of the general public at
2479 reasonable times during regular business hours. Upon request, a person responsible for the
2480 records shall make copies available at cost, within a reasonable period of time. The records shall
2481 be maintained in a manner that they can be made available for inspection.

2482
2483 Prior to taking office, all members and employees of the Board, all members of any
2484 Certified Grievance Committee, the Disciplinary Counsel, and all employees of the Office of
2485 Disciplinary Counsel shall swear or affirm that they will abide by these rules and protect the
2486 privacy of the proceedings, documents, and confidentiality of the deliberations, relating to those
2487 proceedings.

2488
2489 (F) **Reciprocal Discipline.**

2490

2491 (1) ~~**Notification of Disciplinary Action.** Within thirty days of the issuance of a~~
2492 ~~disciplinary order in another jurisdiction, an attorney admitted to the practice of law in Ohio shall~~
2493 ~~provide written notification to the Disciplinary Counsel and the Clerk of the Supreme Court of~~
2494 ~~the action. Upon receiving notice from the attorney or another party that an attorney admitted to~~
2495 ~~the practice of law in Ohio has been subjected to discipline in another jurisdiction, the~~
2496 ~~Disciplinary Counsel shall obtain a certified copy of the disciplinary order and file the copy with~~
2497 ~~the Clerk of the Supreme Court.~~

2498
2499 (2) ~~**Show Cause Order.** Upon receipt of a certified copy of an order demonstrating~~
2500 ~~that an attorney admitted to the practice of law in Ohio has been subjected to discipline in~~
2501 ~~another jurisdiction, the Supreme Court shall issue a notice directed to the attorney containing~~
2502 ~~both of the following:~~

2503
2504 (a) ~~A copy of the order from the other jurisdiction;~~

2505
2506 (b) ~~An order directing that the attorney notify the Supreme Court, within twenty days~~
2507 ~~from the service of notice, of any claim by the attorney predicated upon the grounds set forth in~~
2508 ~~division (F)(4) of this section that the imposition of the identical or comparable discipline in~~
2509 ~~Ohio would be unwarranted and the reasons for that claim.~~

2510
2511 (3) ~~**Deferral.** If the discipline imposed in the other jurisdiction has been stayed, any~~
2512 ~~reciprocal discipline imposed in Ohio shall be deferred until the stay expires.~~

2513
2514 (4) ~~**Disposition.**~~

2515
2516 (a) ~~Thirty days after service of the notice issued pursuant to division (F)(2) of this~~
2517 ~~section, the Supreme Court shall impose the identical or comparable discipline imposed in the~~
2518 ~~other jurisdiction, unless the attorney proves either of the following by clear and convincing~~
2519 ~~evidence:~~

2520
2521 (i) ~~A lack of jurisdiction or fraud in the other jurisdiction's disciplinary proceeding;~~

2522
2523 (ii) ~~That the misconduct established warrants substantially different discipline in~~
2524 ~~Ohio.~~

2525
2526 (b) ~~Reciprocal discipline may be imposed even if the term of the attorney's discipline~~
2527 ~~in the other jurisdiction has expired. In determining whether to impose reciprocal discipline after~~
2528 ~~the attorney's discipline in the other jurisdiction has expired, the Supreme Court may consider~~
2529 ~~whether the attorney provided timely written notification pursuant to division (F)(1) of this~~
2530 ~~section and, if the attorney delayed in providing written notification, whether the delay in~~
2531 ~~notification was caused by factors beyond the attorney's control.~~

2532
2533 (e) ~~Reciprocal discipline shall be effective on the date it is announced by the~~
2534 ~~Supreme Court.~~

2535

2536 (5) ~~**Res Judicata.** In all other respects, a final adjudication in another jurisdiction~~
2537 ~~that an attorney has been subjected to discipline shall establish conclusively the misconduct for~~
2538 ~~purposes of a disciplinary proceeding in Ohio.~~

2540 (6) ~~**Enhancement of Sanction.** If an attorney fails to report to the Disciplinary~~
2541 ~~Counsel and to the Clerk of the Supreme Court that he or she has been subjected to discipline in~~
2542 ~~another jurisdiction, the Supreme Court may enhance the sanction that it would have imposed~~
2543 ~~had the attorney complied with division (F)(1) of this section.~~

2545 (7) ~~**Court Discretion.** The Supreme Court may make its determination under this~~
2546 ~~section from the pleadings filed, or may permit or require briefs or a hearing or both.~~

2547 **Sections 28-29. RESERVED**

2549 **Section 30. Definitions.**

2551 As used in this rule:

2552 (A) “Approved treatment program” means a chemical dependency treatment program
2553 approved by a state agency, Ohio Lawyers Assistance Program, or other appropriate authority.

2554 (B) “Complaint” means a formal written allegation of misconduct, mental illness, or
2555 substance use disorder of a person designated as the respondent.

2556 (C) “Disqualified attorney” means a former attorney who has been disbarred or who
2557 has resigned with discipline pending.

2558 (D) “Judicial officer” means any person who is subject to the Code of Judicial
2559 Conduct as set forth in the Application section of that code.

2560 (E) “Mental disorder” and “substance use disorder” have the same meanings as in the
2561 most recent edition of the American Psychiatric Association’s Diagnostic and Statistical Manual
2562 of Mental Disorders.

2563 (F) “Mental illness” has the same meaning as in R.C. 5122.01(A).

2564 (G) “Misconduct” means any violation by a judicial officer or an attorney of any
2565 provision of the oath of office taken upon admission to the practice of law in this state or any
2566 violation of the Ohio Rules of Professional Conduct or the Code of Judicial Conduct,
2567 disobedience of these rules or of the terms of an order imposing probation or a suspension from
2568 the practice of law, or the commission of an illegal act or conviction of a crime that reflects
2569 adversely on the lawyers’ honesty or trustworthiness.

2570 (H) “Probable cause” means there is substantial, credible evidence that misconduct
2571 has been committed.

2582 (I) “Qualified health care professional” means an individual who is licensed,
2583 certified, or otherwise authorized or permitted by law to provide diagnoses and treatment of
2584 mental disorders and who is acting within the scope of his or her practice;

2585
2586 (J) “Qualified chemical dependency professional” means an individual who is
2587 licensed, certified, or otherwise authorized or permitted by law to provide diagnoses and
2588 treatment of chemical dependencies and is acting within the scope of his or her practice.

THE RULES AND PROCEDURAL REGULATIONS GOVERNING PROCEDURE ON COMPLAINTS AND HEARINGS BEFORE OF THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE PROFESSIONAL CONDUCT OF THE SUPREME COURT OF OHIO

1 **Section 1. Complaint Requirements**

2
3 (A) ~~The complaint shall allege the specific misconduct detailed in Gov. R. IV or~~
4 ~~Section 6(a) of Gov. R. V and cite the disciplinary rule allegedly violated by the Respondent.~~
5 ~~The Panel panel and Board board shall not be limited to the citation to the disciplinary rule(s) in~~
6 ~~finding violations based on all the evidence.~~

7
8 (B) ~~The Relator in the complaint shall set forth the Respondent's attorney registration~~
9 ~~number and his last known address where the Board shall serve the complaint.~~

10
11 {Section 1 Approved by Supreme Court of Ohio, October 8, 1990}

12
13 **Section 2 Reg. 1. Pleadings and Motions.**

14
15 (A) **Motions.** Within the period of time permitted for an answer to the complaint,
16 Respondent the respondent may file any motion appropriate under Rule Civ. R. 12 of the Ohio
17 Rules of Civil Procedure, supported by a brief and affidavits if necessary. A brief and affidavits,
18 if appropriate, in opposition to such motion may be filed within twenty fourteen days after
19 service of such motion, unless a shorter or longer period is ordered by the chair of the Board or a
20 hearing panel. No oral hearing will be granted, and rulings of the Board will be made by the
21 Chairman chair or vice-chair of the Board or any member commissioner designated by the
22 Secretary director of the Board. All motions shall be made in accordance with Gov. Bar R. V
23 and this rule regulation.

24
25 (B) ~~The chairman or a member of the panel shall rule on all motions subsequent to the~~
26 ~~appointment of a panel.~~ (C) **Extensions of time.** For good cause, the ~~Chairman of the Board~~
27 ~~chair~~, or, after appointment of a panel, the ~~chairman chair~~ or ~~member of~~ judge or lawyer
28 commissioner appointed to the panel may grant extensions of time for the filing of any pleading,
29 motion, brief or affidavit, either before or after the time permitted for filing. No extension of
30 time may be requested or granted to file a consent to discipline agreement beyond the time set
31 forth in Gov. Bar R. V, Section 16.

32
33 (C) **Withdrawal of Counsel.** Counsel seeking to withdraw from a pending case in
34 which a hearing has been scheduled shall file a motion to withdraw. The motion shall set forth
35 the reason for withdrawal and, in the case of counsel for the respondent or petitioner, a
36 certification that notice of the withdrawal has been provided to the respondent or petitioner.

37
38 (D) **Proof of Service.** Every pleading after the complaint shall show proof of service.

39
40 {Section 2 Approved by Supreme Court of Ohio, October 8, 1990}

41
42 **Section 3. Rules of Procedure Reg. 2. Miscellaneous Procedures.**
43

44 (A) ~~The Board and hearing panels shall follow the Ohio Rules of Civil Procedure~~
45 ~~wherever practicable unless a specific provision of Gov. Bar R. V provides otherwise.~~

46
47 ~~(B)(A)~~ Depositions taken in Gov. Bar R. V. disciplinary proceedings shall be filed with
48 the Secretary of the Board as Rule 32 of the Ohio Rules of Civil Procedure prescribes director as
49 prescribed in Civ. R. 32.

50
51 ~~(C)(B)~~ If ~~Relator~~ relator and ~~Respondent~~ respondent stipulate to facts, the ~~chairman~~ panel
52 chair or member of a judge or lawyer commissioner member of the panel may either cancel a
53 hearing and deem the matter submitted in writing or order that a hearing be held with all counsel
54 and the ~~Respondent~~ respondent present.

55
56 ~~(D)(C)~~ Notwithstanding the agreement of ~~Relator~~ relator and ~~Respondent~~ respondent on a
57 stipulated violation or recommended sanction for ~~Respondent~~, neither the hearing panel ~~and~~ nor
58 the Board ~~are not~~ is bound by the joint recommendation ~~and retain sole power and.~~ The panel
59 retains discretion to make a recommendation to the Board, and the Board retains discretion to
60 make a final recommendation to the ~~Ohio~~ Supreme Court on the violation or appropriate
61 sanction.

62
63 [~~Section 3 (A), (B), (C), (D) Approved by Supreme Court of Ohio, October 8,~~
64 ~~1990; Section 3 (A), (B) Amended by Supreme Court of Ohio, effective June 1,~~
65 ~~2000]~~

66
67 **Section 4 Reg. 3. Filings; Required Number of Copies; Exhibits; Manner of Service.**
68

69 (A) All pleadings, motions, briefs, stipulations, consent to discipline agreements, and
70 other documents shall be filed with the director of the Board and contain a certificate of service.
71 The certificate of service shall include a statement that service has been made on the opposing
72 party and the manner of service and shall indicate whether the document has been served on the
73 panel and, if so, the manner of service.

74
75 (B) Complaints shall be filed with the Board as required by Gov. Bar R. V. All other
76 documents shall be filed with the Board in the following number:

77
78 (1) If no hearing panel has been appointed, the original document and four copies;

79
80 (2) If a hearing panel has been appointed and the document has not been served on
81 the panel, the original document and four copies;

82
83 (3) If a hearing panel has been appointed and the document has been served on the
84 panel, the original document and one copy.
85

86 (C) A party who files or presents exhibits for use at a hearing shall provide or have
87 available sufficient copies for use at the hearing by the opposing party, witnesses, and the
88 hearing panel.

89
90 (D) Whenever provision is made for the service of any notice, order, report, or other
91 paper or copy upon any complainant, relator, respondent, petitioner, or other party, in connection
92 with any proceeding under these rules, service may be made upon counsel of record for such
93 complainant, relator, respondent, petitioner, or other party, either personally or by certified mail.

94
95 (E) The chair of a hearing panel may order the service of documents on the panel by
96 electronic or other alternative means. Any order of the panel chair shall not relieve a party from
97 filing documents with the Board as contained in this regulation.

98
99 [~~Section 4 Approved by Supreme Court of Ohio, July 1, 1992~~]

100
101 **~~Section 5~~ Reg. 4. Quorum of Panel or Board.**

102
103 ~~A Except as otherwise provided in Gov. Bar R. V, a majority of the members of the~~
104 ~~Board of Commissioners, or a hearing panel thereof, shall constitute a quorum for all purposes,~~
105 ~~and the action of a majority of those present comprising the quorum shall be the action of the~~
106 ~~Board of Commissioners or a hearing panel of the Board; except for the granting of a motion for~~
107 ~~default pursuant to section 6 (F) of Gov. Bar R. V, or a dismissal of the complaint at the~~
108 ~~conclusion of the hearing pursuant to section 6(H) of Gov. Bar R. V, which shall require the~~
109 ~~unanimous action of a hearing panel.~~

110
111 [~~Section 5 Approved by Supreme Court of Ohio, July 1, 1992~~]

112
113 **~~Section 6~~ Reg. 5. Manner of Service on Clerk; Record of Such Service a Public Record.**

114
115 All notices shall be served by the ~~Secretary~~ director of the Board upon the clerk of the
116 Supreme Court by leaving at the office of the clerk a true and attested copy of the notice and any
117 accompanying document and by sending to respondent, by certified mail, postage prepaid, return
118 receipt requested, a like, true, and attested copy, with an endorsement thereon of service, upon
119 the clerk of the Supreme Court, addressed to the respondent at the respondent's last known
120 address. The receipt indicating the certified mail number shall be attached to and made a part of
121 the return of service of such notice by the ~~Secretary~~ director. The panel or Board or court before
122 which there is pending any proceeding in which notice has been given as provided in this section
123 may order a continuance as is necessary to afford the respondent reasonable opportunity to
124 appear and defend. The clerk of the Supreme Court shall keep a record of the day and hour of
125 service upon the clerk of notice and any accompanying document, which shall be a public record
126 in the office of the clerk.

127
128 [~~Section 6 Approved by Supreme Court of Ohio, July 1, 1992~~]

131 **Section 7 Power to Issue Reg. 6. Issuance of Subpoenas; Foreign Subpoenas.**
132

133 (A) **Subpoenas.** In investigations and proceedings under this rule upon application by
134 ~~Disciplinary Counsel, the Secretary, or chair of a Certified Grievance Committee~~ authorized to
135 ~~sign a certificate under Section 4(D)(7) of Gov. Bar R. V, the Special Investigator~~ special
136 investigator, respondent, relator, chair of the a hearing panel of the Board, and its Secretary and
137 the director shall have the authority to cause testimony to be taken under oath before the ~~Special~~
138 ~~Investigator, Disciplinary Counsel, a Certified Grievance Committee~~ special investigator, relator,
139 or a hearing panel of the Board. A subpoena shall be issued upon application of the special
140 investigator, respondent, or authorized representative of the relator. All subpoenas shall be
141 signed and issued by the chair of the hearing panel; or the chair of, vice-chair, or director of the
142 ~~Board, or its Secretary~~ and served as provided by the Ohio Rules of Civil Procedure. A notice of
143 subpoena is not required to be issued to the respondent unless probable cause has been found. If
144 probable cause is found, any subpoena previously issued during the investigation into the alleged
145 misconduct shall become public and available for disclosure upon request. A motion to quash a
146 subpoena issued under this section shall be filed with the ~~Secretary~~ director of the Board. If the
147 motion to quash is filed prior to the appointment of a hearing panel, the motion shall be ruled
148 upon by the chair or vice-chair of the Board. If a hearing panel has been appointed, the motion
149 to quash shall be ruled on by the chair of the hearing panel.
150

151 (B)(1) **Subpoena pursuant to law of another jurisdiction.** A foreign disciplinary
152 authority, pursuant to the law of that jurisdiction and where the issuance of the subpoena has
153 been duly approved, if such approval is required by the law of that jurisdiction, may request
154 issuance of a subpoena for use in an attorney or judicial discipline or disability proceeding. The
155 ~~Secretary~~ director shall issue a subpoena upon such request as provided in this rule.
156

157 (2) A subpoena issued pursuant to this rule may be issued to compel the attendance of
158 witnesses and production of documents in the county where the witness resides, is employed or
159 as otherwise agreed by the witness. Service, enforcement, and challenges to such subpoenas
160 shall be as provided in these rules.
161

162 (C) **Request for foreign subpoena in aid of proceeding in this jurisdiction.**
163 ~~Disciplinary Counsel, Certified Grievance Committees, and respondents~~ In furtherance of
164 disciplinary or disability proceedings in this state, a relator or respondent may apply for the
165 issuance of subpoenas in other jurisdictions another jurisdiction pursuant to the rules of ~~those~~
166 ~~jurisdictions in the furtherance of attorney or judicial discipline or disability proceedings in the~~
167 ~~State of Ohio that jurisdiction.~~ The ~~Secretary~~ director may provide assistance to facilitate ~~these~~
168 requests a request made under this division.
169

170 [~~Section 7 Approved by Supreme Court of Ohio, July 1, 1992; Amended by Supreme Court of~~
171 ~~Ohio, effective, June 1, 2000; July 18, 2005; January 1, 2011.~~]
172

173 **Section 8 Reg. 7. Board-Appointed Master Commissioner.**
174

175 (A) **Appointment.** ~~With the approval of a majority of the Board of Commissioners~~
176 ~~on Grievances and Discipline, the Chair of the~~ The Board may appoint one or more master

177 ~~commissioners, who shall be attorneys or judges admitted to active practice in Ohio and who~~
178 ~~masters~~ to perform duties set forth in Gov. Bar R. V and these regulations. A Board-appointed
179 ~~master~~ shall have ~~former service~~ formally served as a ~~member~~ judge or attorney commissioner of
180 the Board and shall be registered as active with the Supreme Court. At the request of a hearing
181 panel chair, ~~the~~ a master may assume any or all case management responsibilities occurring
182 ~~between~~ after the appointment of a hearing panel and before the formal hearing on the complaint
183 ~~set forth in Gov. Bar R. V(6)(G).~~ The master, but shall not exercise adjudicatory powers under
184 Gov. Bar R. V.

185
186 **(B) Compensation.** ~~The compensation for the services of the~~ A Board-appointed
187 master shall be compensated at the same rate and be reimbursed for travel on the same basis as
188 ~~members~~ commissioners of the Board.

189
190 **(C) Proceedings and Powers.** The order of reference to a master shall be signed by
191 the chair of a hearing panel. The order of reference may specify or limit the master's powers and
192 may direct the master to report only upon particular issues or to perform particular acts. Unless
193 so specified or limited, the master may perform all of the following:

194
195 (1) Assist the parties and counsel in making all discovery disclosures including the
196 use of interrogatories, depositions, and requests for admission;

197
198 (2) Conduct pre-trials with counsel and supervise the amendment of pleadings, the
199 use of stipulations between the parties, the preparation of witness lists and exhibits;

200
201 (3) Rule on all motions and interlocutory matters, after consultation with the panel
202 chair occurring between the time of, that occur after the appointment of a hearing panel and
203 before the formal hearing on the complaint;

204
205 (4) Fix a date for the formal hearing before the hearing panel after consultation with
206 the panel chair.

207
208 **(D) Report.** The master shall prepare a written report upon the matters submitted to
209 or considered by the master after consultation with the parties and the panel chair. The master
210 shall serve a copy of the report on each party and file the report with the ~~Secretary of the Board~~
211 director. The report shall become the order of the Board unless a party files a written objection
212 to the report within ten days of the filing with the Board. All objections shall be decided by the
213 chair of the hearing panel as set forth in Gov. Bar R. V, ~~(6)(D)(3).~~

214
215 [~~Section 8 Approved by Supreme Court of Ohio, November 1, 1995~~]

216
217 **~~Section 9~~ Reg. 8. Time Guidelines for Pending Cases.**

218
219 **(A) Pre-hearing Conference.** ~~(1)~~ Within sixty forty days of the ~~assignment date~~
220 appointment of a hearing panel, the panel chair shall conduct a pre-hearing conference with the
221 parties and counsel of record. At the discretion of the panel chair, a pre-hearing conference may

222 be held by telephone, and may be continued from day-to-day. The pre-hearing conference shall
223 be conducted to accomplish the following objectives:

- 224
- 225 ~~(a)(1)~~ Simplification of the issues;
- 226
- 227 ~~(b)(2)~~ Determine the necessity for any amendment to the
228 pleadings;
- 229
- 230 ~~(c)(3)~~ Establish a discovery timetable;
- 231
- 232 ~~(d)(4)~~ Identify anticipated witnesses and the exchange of reports of
233 anticipated expert witnesses;
- 234
- 235 ~~(e)(5)~~ Identify and arrange for the exchange of copies of anticipated
236 exhibits;
- 237
- 238 ~~(f)(6)~~ Discuss the possibility of a consent to discipline agreement, obtaining;(i)
239 stipulations of fact; ~~(ii) stipulation of,~~ and obtaining stipulations regarding the admissibility of
240 exhibits;
- 241
- 242 ~~(g)~~ such other matters as may expedite the hearing;
- 243
- 244 ~~(h)~~ Establish a final hearing date;
- 245
- 246 (8) Discuss any other matters that may expedite the resolution of the case.
- 247

248 ~~At the discretion of the panel chair, a pre-hearing conference may be held by telephone,~~
249 ~~and may be continued from day to day. The hearing date shall be no more than one hundred~~
250 ~~fifty days following the date of assignment.~~

251

252 ~~The Board shall adopt a form for use in a pre-hearing conference as well as an entry~~
253 ~~setting the conference time.~~

254

255 (2)(B) Order. Following the pre-hearing conference, the panel chair shall file an order
256 as appropriate in the case. The order may include deadlines for discovery, the exchange of
257 witness lists, and submission of stipulations, and a hearing date. The order of the panel chair
258 shall be subject to modification *sua sponte* or for good cause.

259

260 (C) Hearing Date. The panel chair shall establish a hearing date in consultation with
261 the parties and other panel members. The hearing date shall be no more than one hundred fifty
262 days following the appointment of the panel. Continuances of the hearing date shall not
263 thereafter be granted due to counsel's or respondent's scheduled appearance before any state
264 court or public agency, except the Supreme Court of Ohio or this Board as set forth in Rule
265 41(B)(2) of the Rules of Superintendence for the Courts of Ohio.

266

267 (B)(D) Submission of Panel Reports.

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(1) The report of the panel for all hearings not conducted on an expedited basis shall be submitted to ~~the full Board~~ **the director** within forty days of the filing of the transcript and scheduled for consideration at the next regularly scheduled meeting of the Board. For good cause shown and at the request of the panel chair, the ~~Secretary~~, at the request of the panel chair, director may extend the date for the filing of the hearing panel report with the Board.

(2) ~~To be considered at the Board meeting, the~~ The panel report should be submitted to the ~~Secretary~~ director at least seven days prior to ~~that date~~ the Board meeting.

~~(C)~~**(E) Time Guidelines Not Jurisdictional.** Failure by the Board to meet the time guidelines set forth in ~~Section 9 of this rule~~ this regulation shall not be grounds for dismissal of the complaint.

~~(D)~~**Reg. 9. Voluntary Dismissals and Amendments Dismissal.**

Following the filing of the complaint, the relator may not voluntarily dismiss the complaint without ~~permission~~ leave of the chair of the hearing panel. A motion to voluntarily dismiss ~~must~~ shall be accompanied by a memorandum setting forth the basis for the dismissal ~~with~~ and, if required by the panel, be accompanied by supporting affidavits, depositions, or documents, ~~if required by the panel, that support the dismissal~~. The panel chair may conduct a hearing on the motion to dismiss and may require the testimony of witnesses and production of documents.

~~The relator may not amend the complaint within thirty days of the scheduled hearing without a showing of good cause to the satisfaction of the panel chair.~~

NOTE: BCGD Proc. Reg., Section 9 (E) is repealed, effective August 1, 2012.

~~{Section 9 Adopted by the Supreme Court of Ohio, effective June 1, 2000; amended effective August 1, 2012}~~

Section 10. Guidelines for Imposing Lawyer Sanctions

~~(A) Each disciplinary case involves unique facts and circumstances. In striving for fair disciplinary standards, consideration will be given to specific professional misconduct and to the existence of aggravating or mitigating factors.~~

~~(B) In determining the appropriate sanction, the Board shall consider all relevant factors; precedent established by the Supreme Court of Ohio; and the following:~~

~~(1) Aggravation. The following shall not control the Board's discretion, but may be considered in favor of recommending a more severe sanction:~~

~~(a) prior disciplinary offenses;~~

314 ~~(b) dishonest or selfish motive;~~
315
316 ~~(c) a pattern of misconduct;~~
317
318 ~~(d) multiple offenses;~~
319
320 ~~(e) lack of cooperation in the disciplinary process;~~
321
322 ~~(f) submission of false evidence, false statements, or other deceptive practices during the~~
323 ~~disciplinary process;~~
324
325 ~~(g) refusal to acknowledge wrongful nature of conduct;~~
326
327 ~~(h) vulnerability of and resulting harm to victims of the misconduct;~~
328
329 ~~(i) failure to make restitution.~~
330
331 ~~(2) — Mitigation. The following shall not control the Board's discretion, but may be~~
332 ~~considered in favor of recommending a less severe sanction:~~
333
334 ~~(a) absence of a prior disciplinary record;~~
335
336 ~~(b) absence of a dishonest or selfish motive;~~
337
338 ~~(c) timely good faith effort to make restitution or to rectify consequences of misconduct;~~
339
340 ~~(d) full and free disclosure to disciplinary Board or cooperative attitude toward~~
341 ~~proceedings;~~
342
343 ~~(e) character or reputation;~~
344
345 ~~(f) imposition of other penalties or sanctions;~~
346
347 ~~(g) chemical dependency or mental disability when there has been all of the following:~~
348
349 ~~(i) A diagnosis of a chemical dependency or mental disability by a qualified health care~~
350 ~~professional or alcohol/substance abuse counselor;~~
351
352 ~~(ii) A determination that the chemical dependency or mental disability contributed to~~
353 ~~cause the misconduct;~~
354
355 ~~(iii) In the event of chemical dependency, a certification of successful completion of an~~
356 ~~approved treatment program or in the event of mental disability, a sustained period of successful~~
357 ~~treatment;~~
358

359 (iv) ~~A prognosis from a qualified health care professional or alcohol/substance abuse~~
360 ~~counselor that the attorney will be able to return to competent, ethical professional practice under~~
361 ~~specified conditions.~~

362
363 (h) ~~other interim rehabilitation.~~

364
365 [~~Section 10 Adopted by the Supreme Court of Ohio, effective June 1, 2000;~~
366 ~~amended effective February 1, 2003]~~

367
368 **Section 11. ~~Consent to Discipline.~~**

369 (A) ~~As used in this section:~~

370
371
372 (1) ~~“Misconduct” has the same meaning as used in Gov. Bar R. V, Section 6(A)(1);~~

373
374 (2) ~~“Sanction” means any of the sanctions listed in Gov. Bar R. V, Section 6(B)(3),~~
375 ~~(4), or (5).~~

376
377 (B) ~~Pursuant to Gov. Bar R. V, Section 11(A)(3)(c), the relator and respondent may~~
378 ~~enter into a written agreement wherein the respondent admits to alleged misconduct and the~~
379 ~~relator and respondent agree upon a sanction to be imposed for that misconduct. The written~~
380 ~~agreement may be entered into after a complaint is certified by the Board, but no later than sixty~~
381 ~~days after appointment of a hearing panel. For good cause shown, the chair of the hearing panel~~
382 ~~or the Board chair may extend the time for the parties to file a written agreement by an additional~~
383 ~~thirty days. The written agreement shall be signed by the respondent, respondent’s counsel, if~~
384 ~~the respondent is represented by counsel, and relator, and shall include all of the following:~~

385
386 (1) ~~An admission by the respondent, conditioned upon acceptance of the agreement~~
387 ~~by the Board, that the respondent committed the misconduct listed in the agreement;~~

388
389 (2) ~~The sanction agreed upon by the relator and respondent for the misconduct~~
390 ~~admitted by the respondent;~~

391
392 (3) ~~Any aggravating and mitigating factors, including but not limited to those listed in~~
393 ~~Section 10, that are applicable to the misconduct and agreed sanction;~~

394
395 (4) ~~An affidavit of the respondent that includes all of the following statements:~~

396
397 (a) ~~That the respondent admits to having committed the misconduct listed in the~~
398 ~~agreement, that grounds exist for imposition of a sanction against the respondent for the~~
399 ~~misconduct, and that the agreement sets forth all grounds for discipline currently pending before~~
400 ~~the Board;~~

401
402 (b) ~~That the respondent admits to the truth of the material facts relevant to the~~
403 ~~misconduct listed in the agreement;~~

405 (e) That the respondent agrees to the sanction to be recommended to the Board;

406

407 (d) That the respondent's admissions and agreement are freely and voluntarily given,
408 without coercion or duress, and that the respondent is fully aware of the implications of the
409 admissions and agreement on his or her ability to practice law in Ohio.

410

411 (e) That the respondent understands that the Supreme Court of Ohio has the final
412 authority to determine the appropriate sanction for the misconduct admitted by the respondent.

413

414 (C) The agreement shall be filed with the Secretary of the Board and submitted either
415 to the hearing panel or a master commissioner appointed pursuant to Section 8. Relator and
416 respondent may file a brief in support of the agreement. If the hearing panel, by majority vote,
417 or master commissioner recommends acceptance of the agreement and concurs in the agreed
418 sanction, the matter shall be scheduled for consideration by the Board in accordance with Section
419 9. If the agreement is not accepted by the hearing panel or master commissioner, the matter shall
420 be set for hearing in accordance with Section 9.

421

422 (D) If the agreement is submitted to the Board, the Board, by majority vote, may
423 accept or reject the agreement. If the board Board accepts the agreement, the agreement shall
424 form the basis for the certified report submitted to the Supreme Court pursuant to Gov. Bar R. V,
425 Section 6(L). If the Board rejects the agreement, the matter shall be returned to the hearing panel
426 and set for a hearing in accordance with Section 9.

427

428 (E) If the agreement is not accepted by the hearing panel or the Board, the agreement
429 shall not be admissible or otherwise used in subsequent disciplinary proceedings.

430

431 (F) Nothing in this section shall prevent the relator and respondent from entering into
432 stipulations and a recommended sanction against the respondent pursuant to Section 3.

433

434 (G) Nothing in this section shall affect the jurisdiction of the Supreme Court of Ohio
435 to determine the appropriate sanction for the misconduct admitted by the respondent in
436 accordance with Gov. Bar R. V, Section 8.

437

438 [Section 11 Adopted by the Supreme Court of Ohio, effective May 1, 2001;
439 amended effective April 1, 2008.]

440

441

442 **Sections 12-19 Reg. 10-14. [Reserved]**

443

444 **Section 20 Reg. 15. Regulation for the Issuance of Advisory Opinions**

445

446 **(A) Procedure for Issuance**

447

448 (1) Pursuant to Section 2(C) of Rule V of the Supreme Court Rules for the
449 Government of the Bar of Ohio, the Board of Commissioners on Grievances and Discipline of
450 the Supreme Court of Ohio issues informal, nonbinding advisory opinion letters to members of

451 ~~the Bar and the Judiciary in response to prospective or hypothetical questions regarding the~~
452 ~~application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme~~
453 ~~Court Rules for the Government of the Judiciary of Ohio, the Ohio Rules of Professional~~
454 ~~Conduct, the Code of Professional Responsibility, the Code of Judicial Conduct, or the~~
455 ~~Attorney's Oath of Office. Pursuant to Section 102.08 of the Ohio Revised Code and in a~~
456 ~~manner consistent with Rule V and these regulations, the Board issues advisory opinions~~
457 ~~regarding the application of Chapter 102. or section 2921.42 or 2921.43 of the Ohio Revised~~
458 ~~Code.~~

459
460 (2) **Advisory Opinion Committee.** The Chair There shall be an Advisory Opinion
461 Committee that shall be a standing committee of the Board. Each year, the chair of the Board
462 shall appoint five or more members of the Board commissioners to serve on an Advisory
463 Opinion Subcommittee. The Advisory Opinion Subcommittee is a regular standing
464 subcommittee committee of the Board the committee and shall designate one of the committee
465 members to serve as chair of the committee. A committee member shall serve a one-year term
466 and may be reappointed to the committee. The subcommittee committee shall meet prior to each
467 regularly scheduled Board meeting at the call of the chair and may meet in person or by
468 telephone conference. The Chair shall appoint one subcommittee member to serve as Chair of
469 the Advisory Opinion Subcommittee. Each subcommittee member shall serve for a period of
470 one year from the date of appointment and shall be eligible for reappointment by the Chair.

471
472 **(B)(1) Standards for Issuing Advisory Opinions.** The Board may issue nonbinding
473 advisory opinions regarding the application of the Supreme Court Rules for the Government of
474 the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary of Ohio, the Ohio
475 Rules of Professional Conduct, the Code of Judicial Conduct, or the Attorney's Oath of Office.
476 Pursuant to R.C. 102.08, the Board may issue an advisory opinion upon the request of a judicial
477 officer, court employee, or judicial candidate regarding the application of R.C. Chapter 102. or
478 R.C. 2921.42 or 2921.43. The following standards shall govern the issuance of advisory
479 opinions:

480
481 (a) The question presented shall be prospective or hypothetical in nature and shall not
482 involve completed conduct or questions pending before a court;

483
484 (b) The question presented shall be one of broad interest or importance to the Ohio
485 bar or judiciary;

486
487 (c) The question presented shall involve the conduct of the person requesting the
488 opinion.

489
490 (2) The committee or Board may decline to issue an opinion regarding a question that
491 does not satisfy the standards set forth in this regulation or that is overly broad, lacks sufficient
492 information, or is of narrow interest. The Board staff shall notify the requester of a decision to
493 decline the issuance of an opinion. If an opinion is not issued, the committee or Board may
494 direct the Board staff to provide guidance in a staff letter. The staff letter may be based upon
495 previous opinions of the Board, the views of the committee or the Board, or other relevant

496 information. A staff letter will contain language to indicate that it is a nonbinding staff letter and
497 not an advisory opinion of the Board.

498
499 **(C) Procedure for Requesting an Advisory Opinion.** ~~Requests~~ A request for an
500 advisory opinion shall be submitted in writing to the Secretary of the Board or staff attorney
501 director. A letter acknowledging the receipt The Board staff will send the requester a written
502 acknowledgment of the request will be sent to the requester.

503
504 ~~(4) The Advisory Opinion Subcommittee reviews requests for advisory opinions.~~
505 ~~Within its discretion, the subcommittee may accept or decline a request for an advisory opinion.~~
506 ~~In making such determination the subcommittee strives to select prospective or hypothetical~~
507 ~~questions of broad interest or importance to the Bar or Judiciary of Ohio and to avoid questions~~
508 ~~involving the proposed conduct of someone other than the person requesting the opinion,~~
509 ~~questions regarding completed conduct, questions of law, questions pending before a court,~~
510 ~~questions that are too broad, questions that lack sufficient information, or questions of narrow~~
511 ~~interest.~~

512
513 ~~(5) The requester of an advisory opinion will be notified of the subcommittee's~~
514 ~~determination to accept or decline a request.~~

515
516 ~~(6) As an alternative to selecting or declining a request, the subcommittee may direct~~
517 ~~the staff attorney to provide guidance in a staff letter. The staff letter may be based upon past~~
518 ~~opinions of the Board, the subcommittee's views, and or other relevant information. A staff~~
519 ~~letter will contain language to indicate that it is a nonbinding staff letter not an advisory opinion~~
520 ~~of the Board.~~

521
522 ~~(7) Draft opinions~~ **(D) Procedure for Preparing and Issuing Advisory**
523 **Opinions.**

524
525 ~~(1) Advisory opinion requests will be researched and prepared by the Board's legal~~
526 ~~Board staff. (8) Draft opinions~~ If a decision is made to issue an opinion, the Board staff will
527 prepare a draft opinion for review by the Advisory Opinion Committee. A draft opinion will be
528 forwarded to the subcommittee committee for review approximately three weeks before a Board
529 meeting prior to the next scheduled committee meeting. ~~The subcommittee committee will~~
530 ~~review the draft, make comments or suggestions, and by majority decision approve or disapprove~~
531 ~~of the draft. (9) The subcommittee and legal staff~~ The Board staff and committe ~~will complete~~
532 ~~the process of researching, drafting, and review~~ reviewing an opinion ~~as expeditiously as~~
533 ~~possible, preferably within two to six months after selection of the request.~~

534
535 ~~(10)(2) Each draft opinion approved by the subcommittee committee will be sent to~~
536 ~~Board members commissioners for review approximately two weeks prior to a Board meeting~~
537 ~~and~~ placed on the agenda for consideration at that meeting. ~~Upon review, Board members~~
538 ~~commissioners may direct comments, suggestions, or objections to the Board's Staff Attorney.~~
539 ~~(11) Board staff. If there are objections are received, the draft opinion will be placed on the~~
540 ~~agenda for discussion at the Board meeting. If no objections are received, the Board may vote to~~
541 ~~adopt or modify the draft opinion or to return the draft opinion to the committee for further~~

542 review. If there are no objections, the draft opinion will be adopted without discussion by
543 majority vote of the Board at the Board meeting. Minor or nonsubstantive changes are not
544 considered as objections to a draft opinion.

545
546 ~~(12)~~**(E) Issuance of Advisory Opinions.** A copy of an adopted opinion will be
547 issued to the requester. Issued opinions shall not bear the name of the requester and shall not
548 include the request letter. However, the requester’s name and the request letter are not private
549 and shall be made available upon request. Copies of issued opinions will be submitted for
550 publication in the ABA/BNA Lawyers’ Manual on Professional Conduct, the Ohio State Bar
551 Association Report, and other publications or electronic communications as the Board deems
552 appropriate. Copies of issued opinions will be forwarded to the Law Library of the Supreme
553 Court of Ohio, ~~County Law Libraries~~ county law libraries, Office of Disciplinary Counsel, and
554 local and state bar associations with certified grievance committees. In addition, copies of
555 opinions relating to judges will be forwarded to the Ohio Ethics Commission, Ohio Elections
556 Commission, Ohio Judicial Conference, Ohio Judicial College, Secretary of State of Ohio, and
557 the American Judicature Society.

558
559 ~~(13) Issued opinions shall not bear the name of the requester and shall not include the~~
560 ~~request letter. However, the requester’s name and the request letter are not private and will be~~
561 ~~made available to the bar, the judiciary, or the public upon request.~~

562
563 ~~(B)~~**(F) Procedure for Maintenance of Advisory Opinions.**

564
565 (1) ~~A copy of each~~ Each advisory opinion will be kept shall be maintained in the
566 Board’s offices and posted on the Board’s web page.

567
568 (2) An advisory opinion that becomes withdrawn, modified, not current, or affected
569 by other significant changes will be marked with an appropriate designation to indicate the status
570 of the opinion.

571
572 (3) The designation “Withdrawn” will be used when an opinion has been withdrawn
573 by majority vote of the Board. The designation indicates that an opinion no longer represents the
574 advice of the Board.

575
576 (4) The designation “Modified” will be used when an opinion has been modified by
577 majority vote of the Board. The designation indicates that an opinion has been modified by a
578 subsequent opinion.

579
580 (5) The designation “Not Current” will be used at the discretion of the Board’s
581 attorney staff to indicate that an opinion is not current in its entirety. The designation that an
582 opinion is no longer current in its entirety may be used to indicate a variety of reasons such as
583 subsequent amendments to rules or statutes, or developments in case law.

584
585 (6) The designation “CPR Opinion” will be used when an opinion provides guidance
586 under the Ohio Code of Professional Responsibility that is superseded by the Ohio Rules of

587 Professional Conduct, effective February 1, 2007. The designation indicates that the opinion
588 provides guidance regarding the Board’s advice under the superseded Code.
589

590 (7) The designation “Former CJC Opinion” will be used when an opinion provides
591 guidance under the former Ohio Code of Judicial Conduct that is superseded by the Ohio Code
592 of Judicial Conduct, effective March 1, 2009. The designation indicates that the opinion
593 provides guidance regarding the Board’s advice under the superseded Code.
594

595 (8) Other designations, as needed, may be used by majority vote of the Board
596

597 (9) The Advisory Opinion Index will include a status list identifying the opinions and
598 the designations.
599

600 ~~[Regulation for the Issuance of Advisory Opinions Adopted effective March 1, 1997;~~
601 ~~Numbered as Section 20 effective June 1, 2000; February 1, 2007; January 1, 2010; August 1, 2012.]~~