

**PROPOSED AMENDMENTS TO THE SUPREME COURT RULES FOR THE
GOVERNMENT OF THE BAR OF OHIO AND THE SUPREME COURT RULES FOR
THE GOVERNMENT OF THE JUDICIARY OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until March 26, 2020, on the following proposed amendments to the Supreme Court Rules for the Government of the Bar of Ohio.

Comments on the proposed amendments should be submitted in writing to: John VanNorman, Interim Chief Legal Counsel, Supreme Court of Ohio, 65 South Front Street, 7th Floor, Columbus, Ohio 43215-3431, or ruleamendments@sc.ohio.gov not later than March 26, 2020. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

SUPREME COURT RULES FOR THE GOVERNMENT OF THE BAR OF OHIO

RULE V. DISCIPLINARY PROCEDURE

[Existing language unaffected by the amendments is omitted to conserve space]

Section 2. Jurisdiction and Powers of the Board.

[Existing language unaffected by the amendments is omitted to conserve space]

(C) **Subpoenas.** ~~Upon application of a special investigator, respondent, or authorized representative of the relator, the~~ The Board may issue subpoenas and cause testimony to be taken under oath before disciplinary counsel, a certified grievance committee, hearing panel, or the Board. Each subpoena shall be issued in the name and under the seal of the Supreme Court and shall be signed by the director, Board chair, Board vice-chair, or chair of a hearing panel and served as provided by the Rules of Civil Procedure. Witness fees and mileage shall be as provided in R.C. 2335.06. The refusal or neglect of a person subpoenaed as a witness to obey a subpoena, attend, be sworn or affirm, or to answer any proper question shall be considered a contempt of the Supreme Court and punishable accordingly.

[Existing language unaffected by the amendments is omitted to conserve space]

Section 4. Office of Disciplinary Counsel.

(A) **Disciplinary Counsel.** With the approval of the Supreme Court, the Board, by majority vote, shall appoint a disciplinary counsel who shall perform all of the following duties:

(1) Investigate allegations of misconduct by judicial officers or attorneys and allegations of mental illness, alcohol and other drug abuse, or disorder affecting judicial officers or attorneys;

(2) Initiate and prosecute complaints as a result of investigations under the provisions of this rule;

(3) Certify bar counsel ~~designated~~ nominated by certified grievance committees pursuant to Section 6 of this rule;

(4) Comply with the record retention standards set forth in Section 5 of this rule;

(5) In consultation with the Board, representatives of the certified grievance committees, and others, develop and offer an education curriculum for bar counsel and certified grievance committee members, including an orientation program for newly appointed certified grievance committee members.

[Existing language unaffected by the amendments is omitted to conserve space]

44 **Section 5. Certified Grievance Committees.**

45
46 **[Existing language unaffected by the amendments is omitted to conserve space]**

47
48 **(D)(1) Standards for Certified Grievance Committees.** To obtain and retain
49 certification, each grievance committee shall satisfy all of the following standards:

50
51 **[Existing language unaffected by the amendments is omitted to conserve space]**

52
53 (ii) ~~Beginning January 1, 2016, no~~ No member of a certified grievance committee shall
54 serve or have served on the committee for more than ten consecutive years. A member's tenure
55 on a certified grievance committee prior to January 1, 2016 shall be considered for purposes of
56 determining the member's consecutive service on the certified grievance committee. A member
57 who served on the committee for ten consecutive years may be reappointed to the committee if
58 two or more years have elapsed since the conclusion of the member's prior service.

59
60 (b) *Meetings.* Meet at least once every third month.

61
62 (c) *Office.* Maintain a fulltime, permanent office that is open during regular business
63 hours, has a listed telephone number, and is staffed by a minimum of one fulltime employee to
64 process grievances received by the certified grievance committee and assist with other work of the
65 certified grievance committee. A joint certified grievance committee shall designate a single office
66 within the geographical region served by the joint committee, and the fulltime employee
67 designated to assist the committee may be employed jointly by the bar associations that have
68 established the joint committee.

69
70 (d) *Bar counsel.* ~~Designate~~ Nominate bar counsel, who shall be certified by
71 disciplinary counsel pursuant to and perform the duties set forth in Section 6 of this rule, ~~to~~
72 ~~supervise the receipt and investigation of grievances, the prosecution of formal complaints, and~~
73 ~~perform such other duties required by this rule.~~ Bar counsel may be a volunteer or be paid for
74 services related to disciplinary activities by or through the certified grievance committee. ~~Bar~~
75 ~~counsel shall devote the time necessary to performing the duties set forth in this rule, including but~~
76 ~~not limited to assisting in the intake and investigation of grievances, prosecuting formal~~
77 ~~complaints, advising the certified grievance committee on matters of professional conduct and~~
78 ~~disciplinary procedures, and participating in educational activities related to professional conduct~~
79 ~~and disciplinary procedures. Annually, bar counsel shall be required to complete a minimum of~~
80 ~~three hours of training offered or approved by disciplinary counsel in one or more of the following~~
81 ~~subject matter areas:~~

82
83 (i) Legal ethics;

84
85 (ii) Judicial ethics;

86
87 (iii) ~~Execution of the responsibilities outlined in this rule for the review and~~
88 ~~investigation of grievances and the preparation and prosecution of formal complaints.~~

89

90 (e) ~~Training for volunteer lawyers and bar counsel.~~ On or after January 1, 2016, any
91 bar counsel or volunteer grievance committee member who is designated trial counsel of record in
92 a case prosecuted before the Board shall attend and complete a training program that is offered or
93 approved by disciplinary counsel and that relates to the preparation and prosecution of formal
94 complaints. ~~Bar counsel and volunteer grievance committee members shall be required to satisfy
95 this training requirement a minimum of once every two calendar years. Any hours of training
96 completed by bar counsel to satisfy this requirement may be applied to satisfying the three-hour
97 annual training requirement set forth in division (D)(1)(d) of this section.~~

98
99 (f) *Files and records.* Maintain files and records of proceedings, in paper or electronic
100 format and in accordance with the following schedule:

101
102 (i) Records of the proceedings of the certified grievance committee and files related to
103 any matter in which the committee filed a formal complaint shall be retained permanently;

104
105 (ii) Files related to any matter in which the committee initiated an investigation shall
106 be retained for ten years;

107
108 (iii) Files related to any matter that the committee dismissed without investigation shall
109 be retained for two years.

110
111 ~~(g)~~(f) *Funding.* Be sufficiently funded by the sponsoring bar association or associations
112 to perform the duties imposed by these rules.

113
114 ~~(h)~~(g) *Written procedures.* Establish and file with the Board written procedures for the
115 processing of grievances. The written procedures shall provide a method for notifying potential
116 grievants that they have the option to file a grievance with the Office of Disciplinary Counsel
117 rather than with the certified grievance committee.

118
119 ~~(i)~~(h) *Quarterly reports.* File quarterly reports with the Board on the form and by the
120 dates prescribed in Section 4 of this rule. Each certified grievance committee shall include in the
121 report the results of cases referred to the Board-approved alternative dispute resolution methods
122 along with recommendations for further action, including discontinuance or amendment of
123 alternative dispute resolution procedures.

124
125 **[Existing language unaffected by the amendments is omitted to conserve space]**

126
127 **(E)(1) Annual Report and Biennial Recertification.** On or before the first day of March,
128 each certified grievance committee shall file with the Board a report of its activity in the preceding
129 calendar year. The annual report shall be submitted on behalf of the certified grievance committee
130 by the committee chair and bar counsel, and shall include all of the following:

131
132 (a) A current roster of all members of the certified grievance committee that identifies
133 the committee chair, the nonattorney members of the committee, the tenure of each member's
134 service on the committee, and the expiration date of each committee member's term;

135

136 (b) Information indicating compliance by bar counsel and ~~volunteer grievance~~
137 ~~committee members~~ with the education requirements set forth in ~~division (D)(1)(d) and (D)(1)(e)~~
138 ~~of this section.~~ Section 7(C)(4) of this rule;

139
140 (c) Other information considered necessary by the Board to ascertain the certified
141 grievance committee's compliance with the standards set forth in division (D) of this section.

142
143 (2) Based on the content of the annual reports for the two preceding years and other
144 relevant information that may be available to the Board, the Board, on or before May 1, ~~2014 and~~
145 ~~every two years thereafter~~ of each even-numbered year, shall do one of the following:

146
147 (a) Recertify the grievance committee;

148
149 (b) Notify the certified grievance committee of its noncompliance with specific
150 minimum standards applicable to the operation of a certified grievance committee, the steps the
151 certified grievance committee is required to take to remedy noncompliance, and the time in which
152 the certified grievance committee must remedy noncompliance;

153
154 (c) Initiate decertification proceedings pursuant to division (F) of this section.

155
156 **(F)(1) Decertification.** The Board may decertify a certified grievance committee at the
157 request of one or more of its sponsoring local bar associations or *sua sponte*. If the committee
158 fails to adhere to the standards set forth in division (D) and (E) of this section and regulations
159 adopted by the Board, if bar counsel fails to comply with the ~~education~~ requirements set forth in
160 ~~division (D)(1)(d)~~ Section 7 of this section rule, or if the committee substantially fails to perform
161 the obligations set forth in these rules, the director may issue to the chair of the certified grievance
162 committee and president of the sponsoring bar association an order to show cause why the
163 grievance committee should not be decertified by the Board for the reasons set forth in the order.
164 The Board shall hold a hearing before three commissioners, chosen by lot, who do not reside in
165 the same appellate district where the certified grievance committee is located. If the panel of
166 commissioners recommends decertification, it shall issue findings setting forth all of the following:

167
168 **[Existing language unaffected by the amendments is omitted to conserve space]**

169
170 **Section 6. Bar Counsel.**

171
172 **(A)(1) Certification of Bar Counsel.** Disciplinary counsel shall certify bar counsel who
173 is nominated on or after January 1, 2021. Any bar counsel certified prior to January 1, 2021, shall
174 not be subject to recertification but otherwise shall comply with the requirements set forth in this
175 section. With the prior approval of the Board, disciplinary Disciplinary counsel shall promulgate
176 and make available to the certified grievance committees ~~and bar counsel~~ the criteria that will be
177 used in certifying bar counsel and a form for submitting bar counsel nominations for certification.
178 The criteria for certification shall include, but not be limited to, all of the following:

179
180 (a) Legal experience, including substantive areas of practice and trial experience;

181

182 (b) Any experience as a member of a certified grievance committee;

183
184 (c) Experience in reviewing and investigating grievances or prosecuting formal
185 complaints, or both, including but not limited to the approximate number of grievances reviewed
186 and investigated, the number of cases presented to hearing panels of the Board, and the number of
187 disciplinary hearings before the Supreme Court;

188
189 (d) References from at least three persons in the legal community who attest to the
190 applicant's high ethical standards, professionalism, and integrity.

191
192 (2) Upon receipt of the nomination and application materials, disciplinary counsel shall
193 promptly make a decision to grant or deny certification and provide notice to the certified
194 grievance committee, nominated bar counsel, and the Board of Professional Conduct. To facilitate
195 the review of a nomination and application, disciplinary counsel may conduct an interview of the
196 nominated bar counsel.

197
198 **(B) Decertification.** Disciplinary counsel may decertify bar counsel for failing to
199 competently and diligently perform the duties set forth in Gov. Bar R. V, ~~failing to comply with~~
200 ~~the education requirements set forth in Section 5 of this rule,~~ or for other good cause shown. Before
201 decertifying bar counsel, disciplinary counsel shall provide to bar counsel and the chair of the
202 certified grievance committee that employs or retains bar counsel written notice proposing the
203 decertification of bar counsel and shall afford bar counsel a reasonable opportunity to respond to
204 the proposed decertification.

205
206 **(C) Duties of Bar Counsel.** Bar counsel shall devote the time necessary to performing
207 the duties set forth in this rule, including but not limited to the following:

208
209 (1) Supervising the intake and investigation of grievances;

210
211 (2) Serving as the point of contact between respondents and respondents' counsel;

212
213 (3) Advising and training certified grievance committee members on matters of
214 professional conduct and disciplinary procedures;

215
216 (4) Participating in education activities related to professional conduct and disciplinary
217 procedures, including the completion each calendar year of at least six hours of training offered by
218 disciplinary counsel in the areas of legal ethics, judicial ethics, and the execution of responsibilities
219 for the review and investigation of grievances and prosecution of formal complaints;

220
221 (5) Serving as designated lead counsel of record in each formal complaint filed with
222 the Board by the bar counsel's certified grievance committee. For purposes of this rule,
223 designation as lead counsel requires bar counsel to participate personally and substantially in the
224 post-complaint adjudication process including, but not limited to, participating in prehearing
225 telephone conferences; attending discovery depositions; drafting pleadings, stipulations, consent
226 to discipline agreements, and pre-and post-hearing briefs; and attending and litigating the case
227 before the hearing panel. Bar counsel may delegate some aspects of hearing preparation or

228 presentation to assistant bar counsel or volunteer certified grievance committee members, provided
229 that the any attorney to whom responsibilities are delegated is identified as counsel in the case and
230 that bar counsel directly supervises the attorney to whom responsibilities are delegated.

231
232 (D) **Noncompliance.** Failure of bar counsel to comply with the requirements of this
233 section shall be grounds for decertifying the bar counsel’s appointing grievance committee
234 pursuant to Section 5 of this rule.

235
236 **Section 7. Funding; Reimbursements to Certified Grievance Committees.**

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238 **[Existing language unaffected by the amendments is omitted to conserve space]**

239
240 (E) **Deferral or Denial of Reimbursements.** The director may defer or deny an
241 indirect reimbursement requested by a certified grievance committee based on the committee’s
242 failure to satisfy the standards in Section 5(D) and (E) of this rule or bar counsel’s noncompliance
243 with the requirements of Section 7(C) of this rule.

244
245 **[Existing language unaffected by the amendments is omitted to conserve space]**

246
247 **Section 9. Filing and Investigation of Grievances.**

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249 **[Existing language unaffected by the amendments is omitted to conserve space]**

250
251 (D) **Time for Investigation.** The investigation of grievances by Office of Disciplinary
252 Counsel or a certified grievance committee shall be concluded within ~~sixty~~ two hundred seventy
253 days from the date of the receipt of the grievance. A decision as to the disposition of the grievance
254 shall be made within thirty days after conclusion of the investigation.

255
256 (1) **Extensions of Time.** ~~Extensions of time for completion of the investigation may~~
257 ~~be granted by the director of the Board. The Office~~ Upon written request of Disciplinary Counsel
258 ~~disciplinary counsel~~ or a certified grievance committee shall ~~submit a written request for an~~
259 ~~extension. Investigations for which an extension is granted shall be completed within one hundred~~
260 ~~fifty days from the date of receipt of the grievance. Time may be extended when all parties~~
261 ~~voluntarily enter into an alternative dispute resolution method for resolving fee disputes sponsored~~
262 ~~by the Ohio State Bar Association or a local bar association.~~

263
264 (2) ~~**Extension Limits.** The, the~~ director of the Board may extend the time to complete
265 an investigation beyond two hundred seventy days in the event of pending litigation, appeals,
266 unusually complex investigations, including the investigation of multiple grievances, time delays
267 in obtaining evidence or testimony of witnesses, or for other good cause shown. ~~A request for an~~
268 ~~extension of time beyond one hundred fifty days shall be in writing and include the reason for the~~
269 ~~extension request.~~ Disciplinary counsel or the certified grievance committee shall provide notice
270 of an extension request to the respondent or respondent’s counsel. No investigation shall be
271 extended beyond one year from the date of receipt of the grievance. If an investigation is not
272 completed within ~~one hundred fifty~~ two hundred seventy days from the date of filing the grievance
273 or a good cause extension of that time, the director may refer the matter either to a geographically

274 appropriate certified grievance committee or ~~the Office of Disciplinary Counsel~~ disciplinary
275 counsel. ~~The investigation shall be completed within sixty days after referral. No investigation~~
276 ~~shall be extended beyond one year from the date of the filing of the grievance.~~

277
278 **(3)(2) Time Limits not Jurisdictional.** Time limits set forth in this rule are not
279 jurisdictional. No ~~grievance filed~~ investigation or complaint shall be dismissed unless it appears
280 that there has been an unreasonable delay and that the rights of the respondent to have a fair hearing
281 have been violated. Investigations that extend beyond one year from the date of filing are prima
282 facie evidence of unreasonable delay.

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284 **[Existing language unaffected by the amendments is omitted to conserve space]**

285
286 **(I)(1) Independent Examination of Respondent.** If, during the course of the
287 investigation, there exists substantial, credible evidence that a judicial officer or attorney may be
288 unfit to serve in a judicial capacity or practice law due to a substantial physical or mental
289 impairment, disciplinary counsel or certified grievance committee may file a petition under seal
290 with the Board of Professional Conduct requesting the Board issue an order compelling the judicial
291 officer or attorney to submit to an independent medical, psychological, or psychiatric examination.
292 The petition may be filed if all of the following apply:

293
294 (a) Disciplinary counsel or certified grievance committee has requested, in writing, that
295 the judicial officer or attorney voluntarily submit to an independent medical, psychological, or
296 psychiatric examination;

297
298 (b) The judicial officer or attorney has either refused the request or has not responded
299 to the request within fourteen days;

300
301 (c) Disciplinary counsel or certified grievance committee provides the judicial officer
302 or attorney with a written notice of its intent to file the petition and provides the judicial officer or
303 attorney fourteen days to submit a written response.

304
305 (2) The petition filed with the Board shall include any response of the judicial officer
306 or attorney submitted pursuant to division (I)(1)(b) or (c) of this section and affidavits from at least
307 two individuals who have actual, personal knowledge of the alleged impairment. At least one of
308 the affidavits shall be from a judicial officer or attorney licensed to practice law in Ohio. Each
309 affidavit shall set forth the factual basis for the affiant's belief that the ability of the judicial officer
310 or attorney to serve in a judicial capacity or practice law is substantially impaired by a physical
311 illness, mental illness, or disorder.

312
313 (3) Upon receipt of the petition, the chair or vice-chair of the Board shall order the
314 judicial officer or attorney to file a response within seven days. Upon consideration of the petition
315 and any response to the petition, the chair or vice-chair of the Board shall determine whether
316 substantial, credible evidence exists to order the judicial officer or attorney to submit to an
317 independent medical, psychological, or psychiatric evaluation and issue one of the following:

318

319 (a) An order finding the existence of substantial, credible evidence and compelling the
320 judicial officer or attorney to submit to a medical, psychological, or psychiatric examination to be
321 conducted by one or more physicians or qualified health care professional designated by the Board.
322

323 (b) An order finding the absence of substantial, credible evidence and dismissing the
324 petition.
325

326 (4) The order issued pursuant to division (I)(3) of this section shall be served on
327 disciplinary counsel or the certified grievance committee that filed the petition and the judicial
328 officer or attorney named in the petition.
329

330 (5) Upon receipt of the results of the medical, psychological, or psychiatric
331 examination ordered pursuant to this division, the Board shall provide the results to disciplinary
332 counsel or the certified grievance committee that filed the petition and the judicial officer or
333 attorney named in the petition.
334

335 (6) The failure to comply with an order compelling a judicial officer or attorney to
336 submit to a medical, psychological, or psychiatric evaluation shall be considered prima facie
337 evidence of a violation of division (G) of this section.
338

339 **Section 10. Requirements for Filing a Complaint**
340

341 (A) **Notice of Intent to File.** No investigation conducted by ~~the Office of Disciplinary~~
342 ~~Counsel~~ disciplinary counsel or a certified grievance committee shall be completed, and no
343 complaint shall be filed with the Board, without first giving the judicial officer or attorney who is
344 the subject of the grievance or investigation a written notice of each allegation and the opportunity
345 ~~to respond to each allegation. The Office of Disciplinary Counsel or a certified grievance~~
346 ~~committee shall provide the judicial officer or attorney with a minimum of fourteen days to~~
347 ~~respond to the allegations~~ intent to file a formal complaint and fourteen days to respond to the
348 notice. The notice of intent shall include both of the following:
349

350 (1) A copy of the proposed complaint setting forth each allegation of professional
351 misconduct;
352

353 (2) Information about the Ohio Lawyers' Assistance Program.
354

355 **[Existing language unaffected by the amendments is omitted to conserve space]**
356

357 **Section 11. Probable Cause Determinations; Certification and Service of**
358 **Complaints.**
359

360 **[Existing language unaffected by the amendments is omitted to conserve space]**
361

362 (B) **Waiver of Probable Cause.** If the respondent has expressly waived, in writing,
363 his or her right to an independent determination of probable cause by the Board, the director shall
364 immediately certify the complaint to the Board and send a copy of the complaint to the ~~Office of~~

365 ~~Disciplinary Counsel or the appropriate certified grievance committee~~ relator and by electronic
366 service address or certified mail to the respondent.

367
368 **(C) Service, and Publication of Certified Complaint; Notice of Dismissal.** The
369 director shall take the following action based on the order of the probable cause panel:

370
371 (1) If the panel certifies the complaint in its entirety, the director shall serve the
372 complaint on the respondent via electronic service address or certified mail and send a copy to the
373 relator.

374
375 (2) If the panel certifies the complaint in part, the director shall instruct the relator to
376 prepare and submit a new complaint that conforms to the order of the probable cause panel. Upon
377 receipt of the new complaint, the director shall serve the complaint on the respondent via electronic
378 service address or certified mail and send a copy to the relator.

379
380 **[Existing language unaffected by the amendments is omitted to conserve space]**

381
382 **Section 12. Proceedings Before the Board on Certified Complaints.**

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384 **[Existing language unaffected by the amendments is omitted to conserve space]**

385
386 **(D) Notice to Respondent upon Filing of the Complaint.** The director of the Board
387 shall send a copy of the complaint by electronic service address or certified mail to the respondent
388 with a notice requiring the respondent to file, within twenty days after the mailing of the notice,
389 ~~six copies of his or her~~ the respondent's answer and serve copies of the answer on counsel of record
390 named in the complaint. Extensions of time for the filing of the answer may be granted by the
391 director for good cause shown.

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393 **[Existing language unaffected by the amendments is omitted to conserve space]**

394
395 **Section 13. Aggravating and Mitigating Factors.**

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397 **[Existing language unaffected by the amendments is omitted to conserve space]**

398
399 **(C) Mitigation.** The following shall not control the discretion of the Board, but may
400 be considered in favor of recommending a less severe sanction:

401
402 (1) The absence of a prior disciplinary record;

403
404 (2) The absence of a dishonest or selfish motive;

405
406 (3) A timely, good faith effort to make restitution or to rectify consequences of
407 misconduct;

408
409 (4) Full and free disclosure to the Board or cooperative attitude toward proceedings;

410

- 411 (5) Character or reputation;
412
413 (6) Imposition of other penalties or sanctions;
414
415 (7) Existence of a disorder when there has been all of the following:
416
417 (a) A diagnosis of a disorder by a qualified health care professional or qualified
418 chemical dependency professional;
419
420 (b) A determination that the disorder contributed to cause the misconduct;
421
422 (c) In the case of mental disorder, a sustained period of successful treatment or in the
423 case of substance use disorder or nonsubstance-related disorder, a certification of successful
424 completion of an approved treatment program;
425
426 (d) A prognosis from a qualified health care professional or qualified chemical
427 dependency professional that the attorney will be able to return to competent, ethical professional
428 practice under specified conditions.
429
430 (8) Other interim rehabilitation;
431
432 (9) In the case of an elected or appointed judge, a voluntary resignation from judicial
433 office prior to the commencement of the judge's disciplinary hearing before the Board.
434

435 **Section 14. Default; Interim Default Suspension.**
436

437 (A) **Certification of Default.** If the respondent has not filed an answer to a complaint
438 on or before the answer date set forth in the notice to the respondent of the filing of the complaint
439 or any extension of the answer date, the director of the Board shall provide the relator and
440 respondent, in writing, a notice of intent to certify respondent's default to the Supreme Court. The
441 certification of default shall be filed ~~thirty~~ fourteen days after the notice of intent to certify unless
442 the respondent files an answer prior to expiration of the ~~thirty-day~~ fourteen-day period. The
443 certification shall include a copy of the formal complaint pending before the Board and either a
444 certificate indicating that the complaint has been served on the respondent or a certificate
445 indicating that the complaint has been served on the clerk of the Supreme Court pursuant to Section
446 27 of this rule.
447

448 **[Existing language unaffected by the amendments is omitted to conserve space]**
449

450 (C) **Motion for Leave to Answer.** Within ~~one hundred eighty~~ ninety days of the date
451 of the entry of an interim default judgment suspension, the respondent may file a motion with the
452 Supreme Court for leave to file an answer to the complaint pending before the Board. The motion
453 shall include a copy of the respondent's answer as an attachment. The motion may include a
454 request from the respondent to terminate the interim default suspension for good cause shown.
455 Upon receipt of the motion and any response from the relator, the Court may grant the motion and
456 remand the matter to the Board for further proceedings under Section 12 of this rule. The order

457 remanding the matter to the Board shall indicate that the interim default judgment suspension
458 either remains in place while proceedings are pending before the Board or is terminated for good
459 cause shown.

460
461 **(D) Motion to Initiate Default Proceedings.** Within ~~one hundred eighty~~ ninety days
462 of the date of the entry of an interim default judgment suspension, the relator may file a motion
463 with the Supreme Court to have the case remanded to the Board for the purpose of seeking the
464 permanent disbarment of the respondent. Upon receipt of the motion, the Supreme Court may
465 grant the motion and remand the matter to the Board for default proceedings pursuant to division
466 (F) of this section. The order remanding the matter to the Board shall indicate that the interim
467 default judgment suspension remains in place while proceedings are pending before the Board.

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469 **[Existing language unaffected by the amendments is omitted to conserve space]**

470
471 **Section 16. Consent to Discipline.**

472
473 **(A) Content of Agreement.** The relator and respondent may enter into a written
474 agreement wherein the respondent admits to alleged misconduct and the relator and respondent
475 agree upon a sanction, other than an indefinite suspension or disbarment, to be imposed for that
476 misconduct. The written agreement may be entered into after a complaint is certified by the Board,
477 but no later than sixty ninety days after appointment of a hearing panel. ~~For good cause shown,~~
478 ~~the chair of the hearing panel or the Board chair may extend the time for the parties to file a written~~
479 ~~agreement by an additional thirty days.~~ The written agreement shall be signed by the respondent,
480 respondent's counsel, if the respondent is represented by counsel, and relator, and shall include all
481 of the following:

482
483 (1) An admission by the respondent, conditioned upon acceptance of the agreement by
484 the Board, that the respondent committed the misconduct listed in the agreement;

485
486 (2) The sanction agreed upon by the relator and respondent for the misconduct admitted
487 by the respondent and any case law that supports the agreed sanction;

488
489 (3) Any aggravating and mitigating factors, including but not limited to those listed in
490 Section 13, that are applicable to the misconduct and agreed sanction;

491
492 (4) An affidavit of the respondent that includes all of the following statements:

493
494 (a) That the respondent admits to having committed the misconduct listed in the
495 agreement, that grounds exist for imposition of a sanction against the respondent for the
496 misconduct, and that the agreement sets forth all grounds for discipline currently pending before
497 the Board;

498
499 (b) That the respondent admits to the truth of the material facts relevant to the
500 misconduct listed in the agreement;

501
502 (c) That the respondent agrees to the sanction to be recommended to the Board;

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

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

(B) Exceptions. The relator and respondent shall not enter into a consent-to-discipline agreement if the respondent is a judicial officer or public official who engaged in misconduct while serving in an elected public office.

(C) Filing and Consideration of the Agreement. The agreement shall be filed with the director of the Board and submitted to the hearing panel ~~or a master. Relator~~ The relator and respondent may file a brief in support of the agreement. The panel chair may order the relator and respondent to supplement the agreement with additional information or exhibits to facilitate the hearing panel’s consideration of the agreement. If the hearing panel, by majority vote, ~~or master~~ recommends acceptance of the agreement and concurs in the agreed sanction, the matter shall be scheduled for consideration by the Board. If the agreement is not accepted by the hearing panel ~~or master~~, the matter shall be set for hearing.

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

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

Section 17. Supreme Court Review of Certified Report; Orders; Costs; Publication.

(A) Show Cause Order. Upon receipt of a final report of the Board, the Supreme Court shall issue the respondent an order to show cause why the report of the Board shall not be confirmed and a disciplinary order entered. Notice of the order to show cause shall be served by the clerk of the Supreme Court on the respondent and all counsel of record personally or by electronic service address or certified mail. The clerk shall not issue a show cause order upon receipt of a report recommending the acceptance of a consent to discipline agreement.

(B)(1) Response to Show Cause Order. Within twenty days after the issuance of an order to show cause, the respondent or relator may file objections to the findings or recommendations of the Board and to the entry of a disciplinary order or to the confirmation of the report on which the order to show cause was issued. The objections shall be accompanied by a brief in support of the objections and proof of service of copies of the objections and the brief on

549 ~~the director of the Board~~ and all counsel of record. Objections and briefs shall be filed in the
550 number and form required by the Rules of Practice of the Supreme Court of Ohio.

551
552 (2) In lieu of objections, the respondent and relator may file a joint waiver of objections
553 within twenty days of the issuance of an order to show cause. Upon filing of a joint waiver of
554 objections, the case shall immediately be submitted to the Supreme Court for consideration.

555
556 **(C) Answer Briefs.** Answer briefs and proof of service shall be filed within fifteen
557 days after briefs in support of objections have been filed. All briefs shall be filed in the number
558 and form required by the Rules of Practice of the Supreme Court of Ohio.

559
560 **(D) Supreme Court Proceedings.**

561
562 (1) After consideration of a matter submitted to it, the Supreme Court shall enter an
563 order as it finds proper. A disciplinary order may include an order directing the respondent to
564 make restitution to a client or other third-party. If the Court rejects a consent to discipline
565 agreement submitted pursuant to Section 16 of this rule, the Court shall remand the matter to the
566 Board for further proceedings.

567
568 (2) If neither party has filed an objection to the final report of the Board and the Court
569 is considering an increase in the recommended sanction, the Court, prior to issuing a final
570 disciplinary order, shall issue a second order directing the parties to show cause why the Court
571 shall not increase the recommended sanction. A party may file objections and a brief in support
572 within twenty days of the issuance of the show cause order. Objections and briefs shall be filed in
573 the number and form required by the Rules of Practice of the Supreme Court of Ohio. For purposes
574 of this division, an increase in the recommended sanction shall be considered to be either of the
575 following:

576
577 (a) An actual suspension from the practice of law that is longer in duration than the
578 term of actual suspension recommended by the Board;

579
580 (b) An actual suspension from the practice of law when the Board has recommended
581 imposition of a public reprimand or a term suspension, fully stayed.

582
583 (3) Answer briefs and proof of service shall be filed within fifteen days after briefs in
584 support of objections have been filed. All briefs shall be filed in the number and form required by
585 the Rules of Practice of the Supreme Court.

586
587 (4) Unless otherwise ordered by the Court, any disciplinary order or order accepting
588 resignation shall be effective on the date that the order is announced. The order may provide for
589 reimbursement of costs and expenses certified by the Board. An order imposing a suspension for
590 an indefinite period or for a period of six months to two years may allow full or partial credit for
591 any period of suspension imposed under ~~Section~~ Sections 14, 15, or 18 of this rule.

592
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594

595 ~~(A)~~**(D) Notice and Publication.**

596
597 (1) Upon the entry of any disciplinary order pursuant to this rule or the acceptance of
598 a resignation from the practice of law, the clerk of the Supreme Court shall mail certified copies
599 of the entry or acceptance to counsel of record, ~~to the Board,~~ to respondent at ~~his or her~~ the
600 respondent's last known address, to the Office of Disciplinary Counsel, to the certified grievance
601 committee for and the local bar association of the county or counties in which the respondent
602 resides and maintains an office and the county or counties from which the complaint arose, to the
603 Ohio State Bar Association, to the administrative judge of the court of common pleas for each
604 county in which the respondent resides or maintains an office, and to the chief judges of the United
605 States District Courts in Ohio, the United States Court of Appeals for the Sixth Circuit, to the
606 disciplinary authority of any other jurisdiction in which the respondent is known to be admitted,
607 and to the Supreme Court of the United States.

608
609 (2) ~~Publication.~~ Except as provided in Section 15 of this rule, the Supreme Court
610 Reporter shall publish any disciplinary order or acceptance of a resignation from the practice of
611 law entered by the Supreme Court under this rule in the *Ohio Official Reports*. The publication
612 shall include the citation of the case in which the disciplinary order or the acceptance of a
613 resignation was issued.

614
615 **[Existing language unaffected by the amendments is omitted to conserve space]**

616
617 **Section 21. Probation Procedures.**

618
619 **[Existing language unaffected by the amendments is omitted to conserve space]**

620
621 (F) **Duty of the Board upon Filing of Petition.** Upon receipt of a petition for
622 revocation of probation, the director of the Board shall send a copy of the petition by electronic
623 service address or certified mail to the respondent with a notice requiring the respondent to file,
624 within ten days after the mailing of the notice, six copies of the respondent's answer and serve
625 copies on counsel of record. Extensions of time for the filing of the answer may be granted by the
626 director of the Board for good cause shown.

627
628 **[Existing language unaffected by the amendments is omitted to conserve space]**

629
630 (I) **Reinstatement of Stayed Suspension.** On the filing of the final certified report by
631 the panel, the Supreme Court may issue to the respondent an order reinstating any period of
632 suspension previously stayed by the Supreme Court, pending the entry of a final order by the
633 Supreme Court. Notice of an order reinstating any period of suspension previously stayed shall
634 be served personally or by electronic service address or certified mail by the clerk of the Supreme
635 Court on the respondent and all counsel of record.

636
637 **[Existing language unaffected by the amendments is omitted to conserve space]**

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640

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

642

643 [Existing language unaffected by the amendments is omitted to conserve space]

644

645 (B) **Disqualified Attorney Address.** All notices required by a disciplinary order of
646 the Supreme Court shall be sent by electronic service address or certified mail and contain a return
647 address where communications may be directed to the disqualified attorney.

648

649 [Existing language unaffected by the amendments is omitted to conserve space]

650

651 **Section 35. Definitions.**

652

653 As used in this rule:

654

655 (A) “Alcohol and other drug abuse” has the same meaning as in R.C. 5119.90
656 [Involuntary Treatment].

657

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

660

661 (C) “Complaint” means a formal written allegation of misconduct, mental illness,
662 mental disorder, substance use disorder, or nonsubstance-related disorder of a person designated
663 as the respondent.

664

665 (D) “Confidential” acknowledges the oath of office of Sections 1, 4, and 5 of this rule,
666 the necessity of confidentiality of all proceedings, documents, and deliberations of a certified
667 grievance committee, the Office of Disciplinary Counsel, and the Board and its hearing panels.

668

669 (E) “Disorder” means a mental disorder, substance use disorder, or nonsubstance-
670 related disorder.

671

672 (F) “Disqualified attorney” means a former attorney who has been disbarred or who
673 has resigned with discipline pending.

674

675 (G) “Electronic service address” means the email address designated by an attorney for
676 service of documents pursuant to Gov. Bar R. VI, Section 4(B)(2).

677

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

680

681 ~~(H)~~(I) “Mental disorder,” “substance use disorder,” and “nonsubstance-related disorder”
682 have the same meanings as in the most recent edition of the American Psychiatric Association’s
683 Diagnostic and Statistical Manual of Mental Disorders.

684

685 ~~(H)~~(J) “Mental illness” has the same meaning as in R.C. 5122.01(A) [Mental Illness
686 Adjudication].

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

~~(K)~~(L) “Probable cause” means there is substantial, credible evidence that misconduct has been committed.

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

~~(M)~~(N) “Qualified chemical dependency professional” means an individual who is licensed, certified, or otherwise authorized or permitted by law to provide diagnoses and treatment of substance use disorders and is acting within the scope of his or her practice.

705 **RULE VI. REGISTRATION OF ATTORNEYS**

706

707 [Existing language unaffected by the amendments is omitted to conserve space]

708

709 **Section 4. Obligations of Attorney.**

710

711 **(A) Registration requirements**

712

713 Each attorney admitted to the practice of law in Ohio or registered for corporate status shall
714 keep informed of the registration requirements, deadlines, and fees. An attorney's failure to
715 receive notice that a registration and fee are due or notice of noncompliance shall not affect any
716 action taken under this rule.

717

718 **(B) Contact information**

719

720 (1) Each attorney admitted to the practice of law in Ohio or registered for corporate
721 status shall provide the Office of Attorney Services with the attorney's current residence address,
722 office address, office telephone number, ~~and~~ office or residence e-mail address, and electronic
723 service address and shall notify the office of any change in the information recorded on the
724 certificate of registration pursuant to Section 2 or 3 of this rule.

725

726 (2) If an attorney fails to provide the Office of Attorney Services an electronic service
727 address, the attorney's office or residence e-mail address shall be deemed to be the attorney's
728 electronic service address.

729

730 (3) Service of any notice to an attorney by electronic service address pursuant to these
731 rules or the Rules for the Government of the Judiciary of Ohio shall be deemed complete.

732

733 [Existing language unaffected by the amendments is omitted to conserve space]

734

735 **Section 15. Public Access to Records.**

736

737 **(A) General**

738

739 Except for residence addresses, residence telephone numbers, e-mail addresses, electronic
740 service addresses, and social security numbers, information maintained by the Office of Attorney
741 Services, provided by the office to another office of the Supreme Court, or provided by the office
742 to the Ohio Legal Assistance Foundation pursuant Section 4(D)(2) of this rule shall be available
743 for public access pursuant to Sup. R. 44 through 47.

744

745 [Existing language unaffected by the amendments is omitted to conserve space]

746 **RULE VIII. LAWYERS' FUND FOR CLIENT PROTECTION OF THE SUPREME**
747 **COURT OF OHIO.**

748
749 **[Existing language unaffected by the amendments is omitted to conserve space]**

750
751 **Section 3. Eligible Claims.**

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753 **[Existing language unaffected by the amendments is omitted to conserve space]**

754
755 (C) On or after the effective date of this rule, the attorney been disbarred, suspended,
756 or publicly reprimanded, has resigned, or has been convicted of embezzlement or misappropriation
757 of money or other property and the claim is presented within ~~one year~~ five years of the occurrence
758 or discovery of the applicable event. The taking of any affirmative action by the claimant against
759 the attorney within the ~~one year~~ five-year period shall toll the time for filing a claim under this
760 rule until the termination of that proceeding. In the event disciplinary or criminal proceedings, or
761 both, cannot be prosecuted because the attorney cannot be located or is deceased, the Board may
762 consider a timely application if the claimant has complied with the other conditions of this rule.

763
764 **[Existing language unaffected by the amendments is omitted to conserve space]**

765
766 **Section 5. Maximum Recovery.**

767
768 The Board shall determine the maximum amount of reimbursement to be awarded to a
769 claimant. No award shall exceed ~~seventy-five~~ one hundred thousand dollars.

**SUPREME COURT RULES FOR THE
GOVERNMENT OF THE JUDICIARY OF OHIO**

RULE II. Disciplinary Procedure.

[Existing language unaffected by the amendments is omitted to conserve space]

Section 4. Grievances Against Supreme Court Justices.

(A) *Initial review.*

(1) Upon receipt of a grievance from ~~Disciplinary Counsel~~ disciplinary counsel, the Chief Judge of the Courts of Appeals shall select, by lot, a three-member review panel from among the judges designated pursuant to division (A)(3) of this section. The review panel shall contact the justice named in the grievance for a written response within fourteen days to the allegations contained in the grievance. Upon request, the review panel may grant a reasonable extension of time for the justice to provide a response.

(2) Upon receipt of the response, or if no response is received, the review panel shall review the grievance and any response to determine whether good cause exists for further investigation of the grievance. ~~The~~ Within thirty days of the receipt of the response or expiration of the fourteen-day response time if no response is received, the review panel shall report its determination in writing to the Chief Judge. Upon request of the review panel and for good cause shown, the Chief Judge may extend the time for reporting its determination. If the review panel determines that good cause does not exist for further investigation, the Chief Judge shall notify the justice named in the grievance and the grievant of the determination and of the dismissal of the grievance.

(3) In January each year, the administrative judge of each appellate district shall designate the appellate judge senior in service and one additional appellate judge from the district, ~~other than~~ neither of whom shall be the presiding judge of that district or the Chief Judge, to be eligible for service on a review panel pursuant to division (A)(1) of this section. The administrative judge shall advise the Chief Judge, in writing, of the designation. Appointments shall be for a calendar year, and a judge may be reappointed to subsequent terms on the review panels.

(B) *Appointment of special disciplinary counsel; time limits.*

(1)(a)(i) If the review panel determines that good cause exists for further investigation, the Chief Judge shall appoint a special disciplinary counsel to conduct further investigation of the allegations contained in the grievance and any other misconduct discovered during the course of investigating the grievance. The special disciplinary counsel shall possess the qualifications set forth in division (B)(3)(a) of this section and ~~may~~ shall be appointed from the list maintained by ~~the Office of Disciplinary Counsel~~ disciplinary counsel pursuant to division (B)(3)(c) of this section.

905 (ii) When appointing a special disciplinary counsel, the Chief Judge may communicate
906 with the prior Chief Judge to determine whether special disciplinary counsel has been appointed
907 to investigate another grievance against the same justice. If special disciplinary counsel has been
908 appointed, the Chief Judge may appoint the same special counsel to investigate the new grievance.
909

910 **[Existing language unaffected by the amendments is omitted to conserve space]**
911

912 (2)(a) Upon completion of the investigation, special disciplinary counsel shall either
913 report to the Chief Judge that the grievance should be dismissed or prepare and file a formal
914 complaint with the Chief Judge, in the name of special disciplinary counsel as relator, alleging that
915 substantial, credible evidence exists to believe that the justice named in the grievance engaged in
916 misconduct. The complaint shall be submitted with investigatory materials sufficient to
917 demonstrate the existence of substantial, credible evidence to support the allegations of the
918 complaint. The materials shall include any response filed by or on behalf of the respondent and
919 may include other reports, summaries, depositions, statements, exhibits, or any other relevant
920 material.

921 (b) If the special disciplinary counsel recommends the grievance be dismissed, the
922 Chief Judge shall notify the grievant and the justice named in the grievance of such determination
923 in writing.
924

925 (c) Unless the justice against whom the grievance has been filed agrees otherwise, the
926 matter shall remain private unless and until a formal complaint is filed. Nothing shall prohibit a
927 special disciplinary counsel from communicating with another special disciplinary counsel who
928 has been appointed to investigate a grievance against the same justice.
929

930 (3)(a) The special disciplinary counsel shall be an attorney admitted to the practice of law
931 in Ohio, or an attorney licensed and in good standing in any other state and admitted *pro hac vice*
932 by the Chief Judge. The special disciplinary counsel shall not be an employee or appointee of the
933 Supreme Court or have any interest in a case pending before the Supreme Court while serving as
934 the special disciplinary counsel. The special disciplinary counsel shall have the power to issue
935 subpoenas and cause testimony to be taken under oath.
936

937 (b) The special disciplinary counsel shall be paid expenses and reasonable
938 compensation, upon approval of the Chief Judge, from the Attorney Services Fund. The rate and
939 method of compensation, including the payment of compensation while the investigation is
940 ongoing, shall be established by the Chief Judge in the appointment letter or order. The Chief
941 Judge may authorize the special disciplinary counsel to employ support staff as necessary to assist
942 in the investigation and any subsequent proceedings and may authorize payment of fees,
943 compensation, and expenses from the Fund.
944

945 (c) ~~The Office of Disciplinary Counsel~~ counsel shall maintain and provide to the Chief
946 Judge in January each year a list of attorneys who satisfy the qualifications for appointment as
947 special disciplinary counsel and who are otherwise available to accept such appointment.
948 Disciplinary counsel may supplement the list with additional special disciplinary counsel, as
949 necessary.
950

951
952 (C) ~~Appointment of hearing panel; proceedings~~ Proceedings on the formal complaint;
953 probable cause review; appointment of hearing panel.
954

955 (1) Upon receipt of a formal complaint filed by the special disciplinary counsel, the
956 Chief Judge shall appoint a probable cause panel, unless the justice named in the complaint has
957 executed a written waiver of an independent probable cause determination. The probable cause
958 panel shall consist of three former commissioners of the Board of Professional Conduct, none of
959 whom was appointed or reappointed to the Board by the justice named in the complaint. Upon
960 review solely of the complaint and the investigatory materials submitted pursuant to division
961 (B)(2)(a) of this section, the probable cause panel shall make an independent determination
962 whether probable cause exists for the filing of the complaint. Within thirty days of the appointment
963 of the probable cause panel, the panel shall issue an order to the Chief Judge certifying the
964 complaint, in whole or in part, or dismissing the complaint and investigation in its entirety.
965

966 (2) If the order dismisses the complaint and investigation in its entirety, the Chief Judge
967 shall notify the grievant, justice, and special disciplinary counsel. If the order certifies the
968 complaint in part, the Chief Judge shall provide a copy of the order to the special disciplinary
969 counsel with instructions to prepare and file a new complaint that conforms to the determination
970 of the probable cause panel. If the order certifies the complaint in its entirety, or upon receipt of a
971 new complaint prepared as a result of a partial certification of the probable cause panel, the Chief
972 Judge shall do both of the following:
973

974 (a) Appoint a hearing panel of three fulltime trial court judges selected, by lot, from
975 the list of judges developed and maintained pursuant to division (C)~~(5)~~(6) of this section. The
976 judges chosen shall be from separate appellate districts and shall not be from the district in which
977 the respondent resides. The Chief Judge shall designate one of the judges to serve as the chair of
978 the hearing panel.
979

980 (b) Immediately forward the formal complaint to the director of the Board of
981 Professional Conduct, who shall send a copy of the formal complaint by electronic service address
982 or certified mail to the respondent. The complaint shall be accompanied by a notice requiring the
983 respondent to file, within twenty days after the mailing of the complaint, ~~six copies of the~~
984 respondent's answer and serve copies of the answer on special disciplinary counsel and the Chief
985 Judge. For good cause shown, the Chief Judge may grant an extension of time to file the answer.
986

987 ~~(2)~~(3) With reasonable notice to the parties, the hearing panel shall hold a hearing on the
988 complaint. The hearing panel chair may grant requests for continuances for good cause shown.
989 All hearings shall be recorded by a court reporter and a transcript included in the record of the
990 proceedings.
991

992 ~~(3)~~(4) If at the end of the evidence presented by the relator, a unanimous hearing panel
993 finds that the evidence is insufficient to support a charge or count of misconduct or a finding of
994 disability, the panel may order the complaint or count be dismissed. If at the end of all evidence,
995 a majority of the hearing panel finds that the evidence is insufficient to support a charge or count
996 of misconduct, the panel may order the complaint or count be dismissed. The hearing panel chair

997 shall give written notice of the action taken to the director who shall notify the Chief Judge, relator,
998 and respondent. There shall be no appeal from an order dismissing the complaint or count of
999 misconduct.

1000

1001 ~~(4)~~(5) If a majority of the hearing panel determines, by clear and convincing evidence,
1002 that the respondent is guilty of misconduct and a disciplinary sanction is merited or that the
1003 respondent has a mental or physical disability that makes the respondent unable to discharge the
1004 duties of office, the hearing panel shall file a certified report of the proceedings, its findings of
1005 fact, conclusions of law and recommended sanction with the director. The report shall include the
1006 transcript of testimony taken and an itemized statement of the actual and necessary expenses
1007 incurred in connection with the proceedings. The director shall send a copy of the hearing panel's
1008 report and recommendations to the Chief Judge and serve a copy of the report and
1009 recommendations, by electronic service address or certified mail, on the relator and respondent.
1010 At the conclusion of all proceedings before the hearing panel, the director shall file the record of
1011 such proceedings with the Clerk of the Supreme Court as provided in division (E)(1) of this section.
1012

1013

1014 ~~(5)~~(6) In January each year, the administrative judge of each appellate district shall
1015 designate two fulltime trial judges from within the appellate district to be eligible to serve on a
1016 hearing panel appointed pursuant to division (C)~~(4)~~(2)(a) of this section. In selecting the trial
1017 judges who shall be eligible for appointment to hearing panels, the administrative judge shall
1018 consider legal and judicial experience, gender, race, ethnicity, and other relevant factors. Before
1019 designating a judge as eligible for selection to serve on a hearing panel, the administrative judge
1020 shall contact the judge to determine the judge's availability for potential service. The
1021 administrative judge shall advise the Chief Judge, in writing, of the designations.

1022

(D) *Appointment of adjudicatory panel; proceedings before the panel.*

1023

1024 (1) Upon receipt of the hearing panel's report and recommendations, the Chief Judge
1025 shall convene an adjudicatory panel of thirteen appellate judges to review the report and
1026 recommendations. The adjudicatory panel shall consist of the Chief Judge, who shall serve as
1027 chair of the panel, and the presiding judge of each appellate district. If a presiding judge of an
1028 appellate district is unavailable to serve on the adjudicatory panel, the appellate judge of the district
1029 who is senior in service on the court of appeals shall replace the presiding judge.
1030

1031

1032 (2) The adjudicatory panel shall issue the respondent an order to show cause why the
1033 report and recommendation of the hearing panel shall not be confirmed and a disciplinary order
1034 entered. The Clerk shall serve notice of the show cause order by electronic service address or
1035 certified mail on relator and respondent.

1036

1037 (3) Within twenty days after issuance of the show cause order, the respondent or relator
1038 may file objections to the report or recommendations of the hearing panel with the Clerk. The
1039 objections shall be accompanied by a brief in support of the objections and proof of service of
1040 copies of the objections and the brief on all counsel of record. Twelve copies of the objections
1041 and brief in support shall be filed. Answer briefs and proof of service shall be filed within fifteen
1042 days after briefs in support of objections have been filed. Twelve copies of the answer briefs shall
be filed.

1043
1044 (4) If objections are filed, the adjudicatory panel shall promptly schedule oral argument
1045 on objections. After the hearing on objections, or if no objections are filed, the adjudicatory panel
1046 shall issue an order as it finds proper. Unless otherwise ordered, any disciplinary order or order
1047 related to the respondent's mental or physical disability shall be effective on the date the order is
1048 announced. The order may provide for reimbursement to the Attorney Services Fund of costs and
1049 expenses incurred by special disciplinary counsel, the panels appointed pursuant to this section, or
1050 the Secretary.

1051
1052 (5) The Clerk shall mail certified copies of the order to the parties. The Supreme Court
1053 Reporter shall publish the disciplinary order in the *Ohio Official Reports* and the ~~*Ohio State Bar*~~
1054 ~~*Association Report*~~.

1055
1056 (E) *Miscellaneous provisions.*

1057
1058 **[Existing language unaffected by the amendments is omitted to conserve space]**

1059
1060 (7)(a) The Chief Judge, any former commissioner of the Board of Professional Conduct,
1061 or any judge appointed to serve on a panel pursuant to Section 4 of this rule may contact the
1062 director of the Board of Professional Conduct for procedural guidance relative to responsibilities
1063 set forth in this rule. Special disciplinary counsel may contact disciplinary counsel for procedural
1064 guidance relative to responsibilities set forth in this rule.

1065
1066 (b) To assist in the execution of these responsibilities, the director and disciplinary
1067 counsel shall prepare and make available education materials that provide general procedural
1068 guidance to the individuals identified in division (E)(7)(a) of this section. The education materials
1069 may include written guidance, sample correspondence, orders, and entries, and information
1070 regarding the retention of records pursuant to Section 8 of this rule.

1071
1072 **[Existing language unaffected by the amendments is omitted to conserve space]**

1073
1074 **Section 5. Campaign Conduct; Enforcement and Sanctions.**

1075
1076 **[Existing language unaffected by the amendments is omitted to conserve space]**

1077
1078 (E) *Appeal of sanction.*

1079
1080 The respondent may appeal a sanction issued by the commission to the Supreme Court.
1081 Notice of appeal shall be given by the respondent to the secretary of the commission and the
1082 Supreme Court within twenty days after the respondent's receipt by electronic service address or
1083 certified mail of the commission's order. After receipt of the notice of appeal, the Court may issue
1084 a briefing order and other appropriate orders.

1085
1086
1087

1088 **Section 6. Campaign Conduct; Enforcement and Sanctions; Justices and**
1089 **Candidates for the Supreme Court.**

1090
1091 **[Existing language unaffected by the amendments is omitted to conserve space]**

1092
1093 (B) *Appointment of hearing panel; proceedings on the formal complaint.*

1094
1095 **[Existing language unaffected by the amendments is omitted to conserve space]**

1096
1097 (3) Within five days of the conclusion of the hearing, the hearing panel shall prepare
1098 and issue a report of its findings and recommendations. If the panel finds, by clear and convincing
1099 evidence, that the respondent violated Canon 4 of the Code of Judicial Conduct and that a sanction
1100 for such violation is warranted, the hearing panel's report and the record of the proceedings shall
1101 be certified to the director, together with a recommendation as to whether the complaint should be
1102 considered on an expedited basis and whether the five-judge commission appointed pursuant to
1103 division (C) of this section should issue a cease and desist order pursuant to division (C)(2) of this
1104 section. If the hearing panel determines, by clear and convincing evidence, that a violation of
1105 Canon 4 has occurred, the hearing panel shall determine whether the respondent previously has
1106 been found to have violated Canon 4 and include the determination in its report. The director shall
1107 provide a copy of the hearing panel's report to the Chief Judge and send a copy of the hearing
1108 panel's report to the relator and respondent by electronic service address or certified mail.

1109
1110 (C) *Appointment of five-judge commission; proceedings before the commission.*

1111
1112 (1) Within five days of the issuance of the hearing panel's report, the Chief Judge
1113 shall appoint a commission of five appellate judges, chosen by lot from separate appellate
1114 districts. The Chief Judge shall designate one of the judges to serve as chair of the panel. No
1115 appellate judge who served on the panel that reviewed the allegations for probable cause shall be
1116 appointed to serve on the commission.

1117
1118 (2) Unless otherwise recommended by the hearing panel, the commission shall
1119 expedite its consideration of the report and may make its determination from the report of the
1120 hearing panel, permit or require the filing of briefs, conduct oral argument, or order the hearing
1121 panel to take additional evidence. If the commission concludes the record supports the hearing
1122 panel's finding that a violation of Canon 4 has occurred and there has been no abuse of discretion
1123 by the hearing panel, the commission may enter an order that includes one or more of the
1124 sanctions set forth in Section 5(D)(1) of this rule. Upon recommendation of the hearing panel or
1125 *sua sponte*, the commission may enter an interim cease and desist order as it finds reasonable and
1126 necessary prior to making a determination on the hearing panel's report. The interim order shall
1127 be based on the commission's preliminary review of the report and recommendation of the
1128 hearing panel and any record made before the commission.

1129
1130 (3) The commission's determination and any cease and desist order shall be sent to the
1131 director who shall provide a copy to the Chief Judge and serve a copy on the respondent and relator
1132 by electronic service address or certified mail. At the conclusion of all proceedings before the

1133 hearing panel, the director shall file the record of such proceedings with the Clerk of the Supreme
1134 Court as provided in division (F)(1) of this section.

1135
1136 (D) *Appeal of sanction.*

1137
1138 (1) The respondent may appeal a sanction issued by the commission. The notice of
1139 appeal shall be filed by the respondent with the Clerk of the Supreme Court within twenty days
1140 after the receipt by electronic service address or certified mail of the commission's order. The
1141 Clerk shall provide a copy of the notice of appeal to the Chief Judge and send a copy to the relator
1142 by electronic service address or certified mail.

1143
1144 (2) Within five days of receipt of the notice of appeal, the Chief Judge shall convene
1145 an adjudicatory panel of thirteen appellate judges. The adjudicatory panel shall consist of the
1146 Chief Judge, who shall preside over the panel, and the presiding judge of each appellate district.
1147 No appellate judge who served on the panel that reviewed the allegations for probable cause or
1148 who served on the commission to review the report of the hearing panel shall be appointed to
1149 serve on the adjudicatory panel. If a presiding judge of an appellate district is unavailable to
1150 serve on the adjudicatory panel, the appellate judge of the district who is senior in service on the
1151 court of appeals shall replace the presiding judge.

1152
1153 (3) The adjudicatory panel may establish a briefing schedule and make other
1154 appropriate orders. All orders of the adjudicatory panel shall be issued upon instructions from the
1155 panel by the Clerk who shall send the orders by electronic service address or certified mail.

1156
1157 **[Existing language unaffected by the amendments is omitted to conserve space]**

1158
1159 **Section 8. Records Retention.**

1160
1161 The Board of Professional Conduct shall be responsible for retaining records created
1162 pursuant to Sections 4 and 6 of this rule in matters that are dismissed without the filing of a formal
1163 complaint. Upon conclusion of a matter, the Chief Judge shall transmit a complete record of the
1164 matter to the director of the Board. The director shall maintain the records in a secure location and
1165 provide access only upon written direction from the Chief Judge. The director shall retain the
1166 records in accordance with the following records retention schedule:

1167
1168 (A) Two years for matters dismissed by the Chief Judge or a review panel without
1169 investigation;

1170
1171 (B) Ten years for matters that proceed to investigation but are dismissed without the
1172 filing of a formal disciplinary complaint, including any matter dismissed in its entirety by a
1173 probable cause panel.

1174
1175 **Section 9. Definitions.**

1176
1177 As used in this rule:

1178

1179 (A) “Complaint,” “probable cause,” and “misconduct” have the same meanings as in
1180 Gov. Bar R. V;

1181
1182 (B) “Costs” means expenses incurred by the Board of Professional Conduct, the
1183 Supreme Court, and any panel or commission of judges in conducting proceedings under this rule;

1184
1185 (C) “Disciplinary sanction” means any of the sanctions set forth in Gov. Bar R. V,
1186 Section 12, removal, or suspension from office;

1187
1188 (D) “Electronic service address” means the email address designated by an attorney for
1189 service of documents pursuant to Gov. Bar R. VI, Section 4(B)(2).

1190
1191 (E) “Good cause,” for purposes of Sections 4(A) and (B)(1) of this rule, means that,
1192 based on a review of a grievance and any response received, there exists an articulable legal and
1193 factual basis to warrant further investigation of the allegations contained in the grievance;

1194
1195 ~~(E)~~(F) “Judicial candidate” has the same meaning as in Rule 4.6 of the Code of Judicial
1196 Conduct.

1197 **RULE III. Disability Retirement, Removal, or Suspension of Judges.**

1198
1199 **[Existing language unaffected by the amendments is omitted to conserve space]**

1200
1201 **Section 2. Action on the Complaint.**

1202
1203 (A)(1) Upon receipt of a written and sworn complaint, the chair of the Board shall convene
1204 the Board and present the complaint. The director of the Board shall send a copy of the complaint
1205 to the judge against whom the complaint is made. The Board shall then review the investigation
1206 made by the Office of Disciplinary Counsel or a certified grievance committee. If, after review of
1207 the investigation, two-thirds of the members of the Board determine that there is substantial
1208 credible evidence in support of the complaint, the director of the Board shall certify to the Supreme
1209 Court the result of the investigation.

1210
1211 (2) The report of the Board shall be sent by certified mail or electronic service address
1212 to the judge against whom the complaint is made at the same time it is sent to the Supreme Court.

1213
1214 (B)(1) If the report finds there is substantial credible evidence in support of the complaint,
1215 the Supreme Court shall appoint within a reasonable time after its receipt a commission of five
1216 judges, as provided in section 2701.11 of the Revised Code.

1217
1218 The chair of the commission appointed to determine the question of retirement, removal,
1219 or suspension of a judge shall be designated by the Supreme Court. After receipt of the notice of
1220 appointment and the receipt of the complaint, the chair promptly shall fix a day, time, and place
1221 for the hearing.

1222
1223 (2) If the commission determines by majority vote that grounds for retirement,
1224 removal, or suspension without pay have been established by clear and convincing evidence as
1225 alleged in the complaint or as provided in section 2701.12 of the Revised Code, the commission
1226 shall make the necessary and proper order. Notice of any order shall be sent by electronic service
1227 address or certified mail with return receipt to the judge against whom the finding has been made
1228 and to the Supreme Court.

1229
1230 **[Existing language unaffected by the amendments is omitted to conserve space]**

1231
1232 **Section 3. Appeal.**

1233
1234 Any judge retired, removed, or suspended by the commission may appeal the action to the
1235 Supreme Court on the record made before the commission. Notice of the appeal shall be given by
1236 the judge to the commission and the Supreme Court within twenty days after the judge's receipt
1237 by electronic service address or certified mail of the findings made by the commission. After a
1238 notice of appeal is given, the time for filing a transcript of testimony, briefs, and the conduct of a
1239 hearing shall be as provided in Gov. Bar R. V.

1240
1241 **[Existing language unaffected by the amendments is omitted to conserve space]**

1242

1243 **Section 8. Definition.**

1244

1245 As used in this rule:

1246

1247 (A) “Electronic service address” means the email address designated by an attorney for
1248 service of documents pursuant to Gov. Bar R. VI, Section 4(B)(2).

1249

1250 (B) “pay Pay” means all salary payable and benefits available to the Justice or judge as
1251 a result of his or her service in judicial office