

**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**

The following amendments to the Supreme Court Rules for the Government of the Bar of Ohio (Gov. Bar R. V, Sections 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 21, 23, and 35; Gov. Bar R. VI, Sections 4 and 16; and Gov. Bar R. VIII, Sections 3 and 5) and the Supreme Court Rules for the Government of the Judiciary of Ohio (Gov. Jud. R. II, Sections 4, 5, 6, 8, and 9 and Gov. Jud. R. III, Sections 2, 3, and 8) were adopted by the Supreme Court of Ohio. The history of these amendments is as follows:

February 6, 2020	Publication for public comment
September 9, 2020	Final adoption by conference
November 1, 2020	Effective date of amendments

Key to Adopted Amendments:

1. Unaltered language appears in regular type. Example: text
2. Language that has been deleted appears in strikethrough. Example: ~~text~~
3. New language that has been 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.

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(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.

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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.

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Section 5. Certified Grievance Committees.

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

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

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

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

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

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

(i) Legal ethics;

(ii) Judicial ethics;

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

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

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

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

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

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

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

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

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

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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 compliance by bar counsel ~~and volunteer grievance committee members~~ with the education requirements set forth in ~~division (D)(1)(d) and (D)(1)(e) of this section.~~ Section 6(C)(4) of this rule;

(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~~ of each even-numbered year, 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)~~ Section 6 of this section rule, or if the committee substantially fails to perform the obligations set forth in these rules, the 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:

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

Section 6. Bar Counsel.

(A)(1) Certification of Bar Counsel. Disciplinary counsel shall certify bar counsel and assistant bar counsel who are nominated on or after January 1, 2021. Any bar counsel or assistant bar counsel certified or employed prior to January 1, 2021, shall not be subject to recertification but otherwise shall comply with the requirements set forth in this section. ~~With the prior approval of the Board, disciplinary~~ Disciplinary counsel shall promulgate and make available to the certified grievance committees ~~and bar counsel~~ the criteria that will be used in certifying bar counsel and assistant bar counsel and a form for submitting bar counsel nominations for certification. 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) Upon receipt of the nomination and application materials, disciplinary counsel shall promptly make a decision to grant or deny certification and provide notice to the certified grievance committee, nominated bar counsel or assistant bar counsel, and the Board of Professional Conduct. To facilitate the review of a nomination and application, disciplinary counsel may conduct an interview of the nominated bar counsel or assistant bar counsel.

(B) Decertification. Disciplinary counsel may decertify bar counsel or assistant 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 Section 5 of this rule~~; or for other good cause shown. Before decertifying bar counsel or assistant bar counsel, disciplinary counsel shall provide to bar counsel or assistant bar counsel and the chair of the certified grievance committee that employs or retains bar counsel or assistant bar counsel written notice proposing the decertification of bar counsel or assistant bar counsel and shall afford bar counsel or assistant bar counsel a reasonable opportunity to respond to the proposed decertification.

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

(1) Supervising the intake and investigation of grievances;

(2) Serving as the point of contact between the certified grievance committee and respondents and respondents' counsel, provided bar counsel may delegate this task to staff or volunteer members of the certified grievance committee;

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

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

(5) Serving as designated lead counsel of record in each formal complaint filed with the Board after January 1, 2021, by the bar counsel's certified grievance committee. For purposes of this rule, designation as lead counsel requires bar counsel to participate personally and

substantially in the post-complaint adjudication process including, but not limited to, participating in prehearing telephone conferences; attending discovery depositions; drafting pleadings, stipulations, consent to discipline agreements, and pre-and post-hearing briefs; and attending and litigating the case before the hearing panel. Bar counsel may delegate some aspects of discovery, pleading preparation, or hearing presentation to assistant bar counsel or volunteer certified grievance committee members, provided all of the following requirements are met:

- (a) The attorney to whom responsibilities are delegated is identified as counsel in the case;
- (b) Bar counsel directly supervises the attorney to whom responsibilities are delegated;
- (c) Bar counsel remains primarily responsible for litigating the case to the hearing panel.

(D) **Noncompliance.** Failure of bar counsel to comply with the requirements of this section may be grounds for decertifying the bar counsel's appointing grievance committee pursuant to Section 5(F)(1) of this rule.

Section 7. Funding; Reimbursements to Certified Grievance Committees.

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(F) **Deferral or Denial of Reimbursements.** The director may defer or deny an indirect reimbursement requested by a certified grievance committee based on the committee's failure to satisfy the standards in Section 5(D) and (E) of this rule or bar counsel's noncompliance with the requirements of Section 6(C) of this rule.

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Section 9. Filing and Investigation of Grievances.

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(D) Time for Investigation. The investigation of grievances by Office of Disciplinary Counsel or a certified grievance committee shall be concluded within ~~sixty~~ two hundred seventy 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 director of the Board. The Office of Disciplinary Counsel or a certified grievance committee shall submit a written request 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, the director of the Board may extend the time to complete an investigation beyond two hundred seventy days 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. Disciplinary counsel or the certified grievance committee shall provide notice of an extension request to the respondent or respondent's counsel. No investigation shall be extended beyond one year from the date of receipt of the grievance. If an investigation is not completed within one hundred fifty two hundred seventy days from the date of filing the grievance or a good cause extension of that time, the director may refer the matter either to a geographically appropriate certified grievance committee or the Office of Disciplinary Counsel 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)~~**(2) Time Limits not Jurisdictional.** Time limits set forth in this rule are not jurisdictional. No ~~grievance filed~~ investigation or complaint shall be dismissed unless it appears that there has been an unreasonable delay and that the rights of the respondent to have a fair hearing have been violated. Investigations that extend beyond one year from the date of filing are prima facie evidence of unreasonable delay.

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Section 10. Requirements for Filing a Complaint.

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

- (1) A copy of the proposed complaint setting forth each allegation of professional misconduct;
- (2) Information about the Ohio Lawyers Assistance Program.

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Section 11. Probable Cause Determinations; Certification and Service of Complaints.

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(B) Waiver of Probable Cause. If the respondent has expressly waived, in writing, his or her right to an independent determination of probable cause by the Board, the director shall immediately certify the complaint to the Board and send a copy of the complaint to the ~~Office of Disciplinary Counsel or the appropriate certified grievance committee~~ relator and by electronic service address or certified mail to the respondent.

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

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

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

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Section 12. Proceedings Before the Board on Certified Complaints.

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

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

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Section 13. Aggravating and Mitigating Factors.

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

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(8) Other interim rehabilitation;

(9) In the case of an elected or appointed judge, a voluntary resignation from judicial office prior to the commencement of the judge's disciplinary hearing before the Board.

Section 14. Default; Interim Default Suspension.

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

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

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

(C) **Motion for Leave to Answer.** Within ~~one hundred and eighty~~ ninety days of the date of the entry of an interim default judgment suspension, the respondent may file a motion with the Supreme Court for leave to file an answer to the complaint pending before the Board. The motion shall include a copy of the respondent's answer as an attachment. The motion may include a request from the respondent to terminate the interim default suspension for good cause shown. Upon receipt of the motion and any response from the relator, the Court may grant the motion and remand the matter to the Board for further proceedings under Section 12 of this rule. The order remanding the matter to the Board shall indicate that the interim default judgment suspension either remains in place while proceedings are pending before the Board or is terminated for good cause shown.

(D) **Motion to Initiate Default Proceedings.** Within ~~one hundred and eighty~~ ninety days of the date of the entry of an interim default judgment suspension, the relator may file a motion with the Supreme Court to have the case remanded to the Board for the purpose of seeking the

permanent disbarment of the respondent. Upon receipt of the motion, the Court may grant the motion and remand the matter to the Board for default proceedings pursuant to division (F) of this section. The order remanding the matter to the Board shall indicate that the interim default judgment suspension remains in place while proceedings are pending before the Board.

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Section 16. Consent to Discipline.

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

- (1) An admission by the respondent, conditioned upon acceptance of the agreement by the Board, that the respondent committed the misconduct listed in the agreement;
- (2) The sanction agreed upon by the relator and respondent for the misconduct admitted by the respondent and any case law that supports the agreed sanction;
- (3) Any aggravating and mitigating factors, including but not limited to those listed in Section 13, that are applicable to the misconduct and agreed sanction;
- (4) An affidavit of the respondent that includes all of the following statements:
 - (a) That the respondent admits to having committed the misconduct listed in the agreement, that grounds exist for imposition of a sanction against the respondent for the misconduct, and that the agreement sets forth all grounds for discipline currently pending before the Board;
 - (b) That the respondent admits to the truth of the material facts relevant to the misconduct listed in the agreement;
 - (c) That the respondent agrees to the sanction to be recommended to the Board;
 - (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 either of the following:

(1) A judicial officer;

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

(2)(i) In lieu of objections, the respondent and relator, individually or jointly, may file a no-objection brief in support of the recommended sanction of the Board within twenty days of the issuance of an order to show cause. Upon filing of a joint no-objection brief, the case shall immediately be submitted to the Supreme Court for consideration.

(ii) A no-objection brief shall not exceed ten pages in length. The brief shall not, in any way or manner, make any argument opposed to any fact, finding, analysis, argument, or recommendation found or made in the report of the Board or make any argument in support of any recommendation not made in the report. No answering or responsive briefs may be filed in response to a no-objection brief.

(iii) If a no-objection brief violates the prohibitions of division (B)(2)(ii) of this section, the Court shall strike the brief in its entirety and assess the party or parties that filed the brief a fine not to exceed \$500 beyond any costs incurred to that date.

(3) In lieu of objections or a no-objection brief, the respondent and relator may file a joint waiver of objections within twenty days of the issuance of an order to show cause. Upon filing of a joint waiver of objections, the case shall immediately be submitted to the Supreme Court for consideration.

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

(D) Supreme Court Proceedings.

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

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

~~(4)~~(E) Notice and Publication.

(1) Upon the entry of any disciplinary order pursuant to this rule or the acceptance of a resignation from the practice of law, the clerk of the Supreme Court shall mail certified copies of the entry or acceptance to counsel of record, ~~to the Board~~, to respondent at ~~his or her~~ the respondent's last known address, to the Office of Disciplinary Counsel, to the certified grievance committee for and the local bar association of the county or counties in which the respondent resides and maintains an office and the county or counties from which the complaint arose, to the

Ohio State Bar Association, to the administrative judge of the court of common pleas for each county in which the respondent resides or maintains an office, and to the chief judges of the United States District Courts in Ohio, the United States Court of Appeals for the Sixth Circuit, to the disciplinary authority of any other jurisdiction in which the respondent is known to be admitted, and to the Supreme Court of the United States.

(2) ~~**Publication.**~~ 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 publication shall include the citation of the case in which the disciplinary order or the acceptance of a resignation was issued.

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Section 21. Probation Procedures.

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

(F) **Duty of the Board upon Filing of Petition.** Upon receipt of a petition for revocation of probation, the director of the Board shall send a copy of the petition by electronic service address or 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 director of the Board for good cause shown.

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(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 electronic service address or certified mail by the clerk of the Supreme Court on the respondent and all counsel of record.

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Section 22. Duties of a Disbarred or Suspended Attorney.

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

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

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Section 35. Definitions.

As used in this rule:

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

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

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

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

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

~~(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.

[Rule V amended effective October 1, 1986; September 1, 1987; January 1, 1988; March 16, 1988; July 27, 1988; January 1, 1989; October, 11, 1989; November 8, 1989; December 5, 1989; September 1, 1990; July 1, 1992; September 1, 1995; November 1, 1995; July 1, 1996; September 1, 1996; April 21, 1997; October 1, 1997; November 3, 1997; January 20, 1998; November 2, 1998; September 1, 1999; May 8, 2000; May 1, 2001; February 1, 2003; January 12, 2004; February 1, 2007; September 1, 2007; January 1, 2008; April 1, 2008; January 1, 2012; August 1, 2012; January 1, 2013; January 1, 2015; March 1, 2017; November 1, 2018; March 5, 2019; November 1, 2020.]

RULE VI. REGISTRATION OF ATTORNEYS

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

Section 4. Obligations of Attorney.

(A) Registration requirements

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

(B) Contact information; email service address

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

(2) If an attorney fails to provide the Office of Attorney Services an email service address, the attorney's office or residence email address shall be deemed to be the attorney's email service address.

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

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

Section 16. Public Access to Records.

(A) General

Except for residence addresses, residence telephone numbers, email addresses, email service addresses, and social security numbers, information maintained by the Office of Attorney Services, provided by the office to another office of the Supreme Court, or provided by the office to the Ohio ~~Legal Assistance~~ Access to Justice Foundation pursuant Section 4(D)(2) of this rule shall be available for public access pursuant to Sup. R. 44 through 47.

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

[Not analogous to former Rule VI, effective February 28, 1972; amended effective January 1, 1981; November 17, 1982; July 1, 1983; May 13, 1985, July 1, 1986; January 1, 1989; July 1,

1991; September 1, 1991; January 1, 1992; July 1, 1992; July 1, 1993; January 1, 1995; July 1, 1995; November 1, 1995; July 1, 1997; July 1, 1999; November 28, 2000; June 1, 2002; August 19, 2002; November 1, 2002; July 1, 2003; July 1, 2005, September 1, 2005; July 1, 2007; September 1, 2007; January 1, 2008; May 1, 2009; September 1, 2010; January 1, 2012; January 1, 2013; November 1, 2013; January 1, 2015; April 1, 2015; December 1, 2015; July 1, 2016; September 15, 2016; November 1, 2017; November 1, 2018; July 1, 2019; February 1, 2020; June 1, 2020; November 1, 2020.]

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

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

Section 3. Eligible Claims.

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

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

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

Section 5. Maximum Recovery.

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

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

[Not analogous to former Rule VIII, effective January 1, 1976; amended effective June 15, 1981; November 17, 1982; July 1, 1983; May 13, 1985; July 29, 1987; October 1, 1989; January 1, 1990; January 1, 1993; December 1, 1996; October 20, 1997; April 13, 1998; August 1, 2003; January 1, 2015; November 1, 2020.]

RULE XX. TITLE AND EFFECTIVE DATES.

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

Section 2. Effective Dates.

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

(Insert division letter) The amendments to Gov. Bar R. V, Sections 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 21, 23, and 35; Gov. Bar R. VI, Sections 4 and 16; and Gov. Bar R. VIII, Sections 3 and 5, adopted by the Supreme Court on September 9, 2020, shall take effect on November 1, 2020.

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

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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.

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

(b) The investigation of a grievance by special disciplinary counsel shall be concluded within sixty days from the date the grievance is transmitted to special disciplinary counsel, and a decision on disposition of the grievance shall be made within thirty days after the conclusion of the investigation. ~~Extensions of time for completion of the investigation may be granted by the Chief Judge upon written request and for good cause shown, provided that an investigation for which one or more extensions are granted shall be completed within one hundred fifty days from the date the grievance is transmitted to special disciplinary counsel. Extensions beyond one hundred fifty days may be granted by the~~ The Chief Judge may extend the time to complete an investigation, not to exceed one hundred fifty days in total, in the event of pending litigation or appeals, an unusually complex investigation, including the investigation of multiple grievances, time delays in obtaining evidence or testimony of witnesses, or for other good cause shown. No investigation shall extend more than one ~~year~~ hundred fifty days from the date the grievance is transmitted to special disciplinary counsel.

(c) The time limits set forth in this rule are not jurisdictional. No ~~grievance filed investigation or complaint~~ shall be dismissed unless it appears that there has been an unreasonable delay and that the rights of the respondent to a fair hearing have been violated. An investigation that extends beyond one ~~year~~ hundred fifty days from the date the grievance is transmitted to special disciplinary counsel is prima facie evidence of unreasonable delay.

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

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

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

(3)(a) The special disciplinary counsel shall be an attorney admitted to the practice of law in Ohio, or an attorney licensed and in good standing in any other state and admitted *pro hac vice*

by the Chief Judge. The special disciplinary counsel shall not be an employee or appointee of the Supreme Court or have any interest in a case pending before the Supreme Court while serving as the special disciplinary counsel. The special disciplinary counsel shall have the power to issue subpoenas and cause testimony to be taken under oath.

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

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

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

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

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

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

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

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

~~(3)~~(4) If at the end of the evidence presented by the relator, a unanimous hearing panel finds that the evidence is insufficient to support a charge or count of misconduct or a finding of disability, the panel may order the complaint or count be dismissed. If at the end of all evidence, a majority of the hearing panel finds that the evidence is insufficient to support a charge or count of misconduct, the panel may order the complaint or count be dismissed. The hearing panel chair shall give written notice of the action taken to the director who shall notify the Chief Judge, relator, and respondent. There shall be no appeal from an order dismissing the complaint or count of misconduct.

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

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

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

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

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

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

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

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

(E) *Miscellaneous provisions.*

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

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

(b) To assist in the execution of these responsibilities, the director and disciplinary counsel shall prepare and make available education materials that provide general procedural

guidance to the individuals identified in division (E)(7)(a) of this section. The education materials may include written guidance, sample correspondence, orders, and entries, and information regarding the retention of records pursuant to Section 8 of this rule.

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

Section 5. Campaign Conduct; Enforcement and Sanctions.

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

(E) Appeal of sanction.

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

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

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

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

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

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

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

(1) Within five days of the issuance of the hearing panel's report, the Chief Judge shall appoint a commission of five appellate judges, chosen by lot from separate appellate districts. The Chief Judge shall designate one of the judges to serve as chair of the panel. No appellate judge

who served on the panel that reviewed the allegations for probable cause shall be appointed to serve on the commission.

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

(3) The commission's determination and any cease and desist order shall be sent to the director who shall provide a copy to the Chief Judge and serve a copy on the respondent and relator by electronic service address or certified mail. At the conclusion of all proceedings before the hearing panel, the director shall file the record of such proceedings with the Clerk of the Supreme Court as provided in division (F)(1) of this section.

(D) Appeal of sanction.

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

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

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

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

Section 8. Records Retention.

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

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

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

Section 9. Definitions.

As used in this rule:

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

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

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

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

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

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

[Effective: July 1, 1983; amended effective January 1, 1986; October 1, 1986; September 1, 1987; January 1, 1988; January 1, 1993; July 1, 1995; September 1, 1995; January 1, 1996; June 1, 1997; November 1, 1999; January 1, 2004; January 1, 2010; August 11, 2015; November 1, 2020.]

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

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

Section 2. Action on the Complaint.

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

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

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

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

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

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

Section 3. Appeal.

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

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

Section 8. Definition.

As used in this rule:

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

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

[Effective: July 1, 1983; amended effective October 1, 1986; January 1, 1988; January 1, 1993; June 22, 1998; January 1, 2013; August 11, 2015; November 1, 2020.]