

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Proposed Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to Realignment of Board Executive Office Structure and Responsibilities of Hearing Committee Members

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) is considering recommending to the Supreme Court of Pennsylvania that it adopt amendments to Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) 102, 205, 206, 208, 209, 214, 215, 216, 217, 218, 219, 301, 401 and 403, to reflect changes to the Board’s personnel structure and responsibilities of hearing committee members, as set forth in Annex A.

Recently, the Board approved changes to the composition and structure of its Executive Office to eliminate the “Office of the Secretary” and the position of “Secretary of the Board.” The Board has designated personnel to carry out the Board’s duties, chief among those duties, ensuring timely and consistent handling of Board proceedings. An Executive Director will oversee the Prothonotary’s Office, the Attorney Registration Office, Finance, Human Resources and Technology. The Prothonotary’s Office, headed by the Board Prothonotary, will continue to serve as the Board’s filing office. The Board is assisted by legal counsel, consisting of Counsel to the Board, primarily providing counsel to the Board, in performance of its duties, and Special Counsel, primarily providing counsel to the hearing committee members, in performance of their duties. These operational changes necessitate amendments to the Enforcement Rules to remove language pertaining to the former Board structure.

The majority of the proposed rule changes are routine amendments to remove the phrases “Office of the Secretary” and “Secretary of the Board” and replace that language with “Board Prothonotary” or “Attorney Registration Office.” These changes are found at 206(b)(1) and (c), 208(f)(4) and (6), 209(b), 214(d)(4) and (f)(2), 215(a), (a)(6), (b) and (c), 216(e), 217(a), (b), (c) and (e)(1), 218(d)(2)(ii) and (d)(6)(i), 219(g) and (h)(2), 301(e) and 403(f). Proposed amendments at 208(f)(4) and 214(d)(4) clarify that documents are filed with the Board Prothonotary, rather than served.

Proposed amendments to the definitions contained in Rule 102 include adding definitions of “Board Prothonotary,” “Executive Office,” and “Legal Counsel,” removing the definition of “Disciplinary Counsel” and replacing it with a more comprehensive definition of “Office of Disciplinary Counsel,” and amending the definition of “Special Master” to include former senior hearing committee members and Special Counsel.

The expansion of the “Special Master” definition is particularly critical. Recently, the volume of matters before the Board has increased to the extent that the Board has used its power under Rule 205(c)(4), to assign special masters to conduct hearings, in order to ensure timely handling of matters. Rule 205(c)(4) provides that special masters may be former Board members or former

or retired justices or judges not in senior judge status. In order to increase the pool of eligible candidates to serve as special masters and to give the Board flexibility, the Board proposes that the Board’s Special Counsel as well as former senior hearing committee members be included in the list of eligible individuals to serve as special master.

Rule 205(c) addresses the Board’s power and duties. Proposed amendments to subparagraph (c)(2) give the Board the power to appoint an Executive Director, Special Counsel and Counsel to the Board, as well as Chief Disciplinary Counsel and other staff to perform the functions prescribed by the rules. Proposed amendment to subparagraph (c)(4) simplifies the language regarding the Board’s power to assign special masters by removing the list of who may serve as special master and placing that information in the amended definition of “Special Master” in Rule 102, as previously noted. Proposed amendment to subparagraph (c)(5) removes the language that assigning hearing committees may be delegated by the Board to its staff. This language is superfluous, as subparagraph (c)(2) states that the Board has the power to appoint staff to carry out the functions prescribed by the rules.

Rule 401 governs expenses of the Board and sets forth how salaries, expenses and administrative costs are funded. The proposed amended language eliminates a list of employee titles and substitutes the phrase “Disciplinary Board employees,” in order to encompass all employees and to obviate the need to amend the rule when specific employee titles change.

The Board proposes two other amendments to Rule 401. First, the rule is amended to add that expenses of special masters shall be paid by the Board. Currently, this provision is contained in Rule 205(c)(4), pertaining to the Board’s power to assign special masters. Upon review, the Board determined that this language more appropriately falls within Rule 401. Second, the rule is amended to recognize that the Board is funded in two specific ways, by providing that in addition to paying the salaries, expenses and costs referenced in the rule out of funds collected under the provisions of Rule 219, relating to annual attorney registration, these expenses are also paid out of funds collected under Rule 208, relating to costs.

The Board proposes several additional substantive changes to the rules as part of its duty to carry out functions in a timely manner.

Rule 205(c)(7) gives the Board the power to assign hearing committee members to carry out certain duties, including assigning single reviewing members to review recommendations by Disciplinary Counsel for dismissals, informal admonitions, private reprimands, public reprimands and the institution of formal charges. Currently, only senior and experienced members are permitted to review such recommendations. By definition, “senior” and “experienced” members have served for at least 1 year. See, Rule 102, Pa.R.D.E.¹ Recently, the Board has encountered administrative challenges in appointing single reviewing members in disciplinary districts with heavy caseloads that require frequent committee member involvement, particularly in the districts of Philadelphia and its surrounding counties. The Board proposes amend-

¹ By prior Notice of Proposed Rulemaking, the Board seeks amendment to these definitions to eliminate the time requirements and to specify a set number of hearings into formal charges as the criteria for attaining these statuses. See 48 Pa.B. 5717 (September 15, 2018).

ing this subparagraph to allow new members to review Disciplinary Counsel recommendations, as this would increase the pool of available members and facilitate the work flow. The work involved in reviewing a recommendation by Disciplinary Counsel is within the capability of a new member, as it does not require a heightened level of expertise in the disciplinary system.

Further, in the interest of timely facilitation of proceedings, the Board proposes amending Rule 206(d), which currently provides that a special master instead of a hearing committee may be assigned by the Board “[w]here it appears that the hearing or proceeding may be protracted and should be conducted continuously from day to day until conclusion.” The proposed amendment eliminates the criteria that a special master be used only in these circumstances, and enables the Board to assign special masters as necessary to conclude proceedings in a timely manner.

Interested persons are invited to submit written comments regarding the proposed amendments to The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3381), Email address Dboard.comments@pacourts.us on or before December 31, 2018.

By the Disciplinary Board of the Supreme Court of Pennsylvania

JESSE G. HEREDA,
Executive Director

Annex A

Title 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter A. PRELIMINARY PROVISIONS

Rule 102. Definitions.

(a) *General rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

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Board—The Disciplinary Board of the Supreme Court of Pennsylvania.

“Board Prothonotary.” The Prothonotary of the Disciplinary Board of the Supreme Court of Pennsylvania.

Censure—Public censure by the Supreme Court.

Conservator—A conservator appointed under Enforcement Rule 321 (relating to appointment of conservator to protect interests of clients of absent attorney).

Court—The Supreme Court of Pennsylvania.

[“Disciplinary Counsel.” The Chief Disciplinary Counsel and assistant disciplinary counsel.]

Disciplinary Rules—The provisions of the Code of Professional Responsibility as adopted by the Supreme Court of Pennsylvania May 20, 1970, 438 Pa. XXV, as amended from time to time by special order of the Court and governing lawyer conduct occurring or beginning on or

before March 31, 1988 as well as the provisions of the Rules of Professional Conduct as adopted by the Supreme Court of Pennsylvania on October 16, 1987, Pa., and effective on April 1, 1988, as amended from time to time by special order.

Enforcement Rules—The provisions of these rules.

“Executive Office.” The office of the Board that includes the Executive Director, Attorney Registration Office, Board Prothonotary, Legal Counsel, and such other staff as may be required to perform the functions prescribed by these rules.

Experienced hearing committee member—An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has served as a member of a panel of hearing committee members for at least one year and on a hearing committee that has conducted at least one hearing into formal charges of misconduct by a respondent-attorney.

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Informal admonition—Private informal admonition by Disciplinary Counsel.

“Legal Counsel.” Counsel to the Board and Special Counsel.

Military attorney—An attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).

“Office of Disciplinary Counsel.” The Chief Disciplinary Counsel, disciplinary counsel and such other staff as may be required to perform the functions prescribed by these rules.

Petitioner-attorney—Includes any person subject to these rules who has filed a petition for reinstatement to the practice of law.

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Special Master—[**A special master assigned**] Assigned under Enforcement Rule 206 (relating to hearing committees and special masters), **includes former Board members, former or retired justices or judges, not on senior status, Special Counsel, and former senior hearing committee members.**

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Subchapter B. MISCONDUCT

Rule 205. The Disciplinary Board of the Supreme Court of Pennsylvania.

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(c) The Board shall have the power and duty:

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(2) To appoint [**a Secretary**] **an Executive Director**, a Chief Disciplinary Counsel, **Special Counsel and Counsel to the Board** and such [**assistant disciplinary counsel and**] staff as may from time to time be required to properly perform the functions prescribed by these rules.

(3) To appoint not less than 18 hearing committee members within each disciplinary district. Each person appointed as a hearing committee member for a district shall be a member of the bar of this Commonwealth who maintains an office for the practice of law within that district.

(4) To assign [**as**] special masters **pursuant to Rule 206(d)** [**three or more former members of the**

Board or former or retired justices or judges who are not in senior judge status. The expenses and compensation of the special masters shall be paid as a cost of disciplinary administration and enforcement. See Enforcement Rule 219(a) (relating to annual registration of attorneys)].

(5) To assign formal charges or the conduct of an investigatory hearing to a hearing committee or special master, and to assign a reinstatement petition to a hearing committee. [**The assignment to a hearing committee of formal charges, the conduct of an investigatory hearing, or a reinstatement petition may be delegated by the Board to its Secretary.**] A hearing committee member who has passed upon Disciplinary Counsel's recommended disposition of the matter shall be ineligible to serve on the hearing committee that considers the matter.

(6) To review the conclusions of hearing committees and special masters with respect to formal charges or petitions for reinstatement, and to prepare and forward its own findings and recommendations, together with the record of the proceeding before the hearing committee or special master, to the Supreme Court.

(7) To assign [**periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to**]:

(i) **senior, experienced or new hearing committee members to** review and approve or modify recommendations by Disciplinary Counsel for dismissals, informal admonitions, private reprimands, public reprimands and institution of formal charges;

(ii) **senior or experienced hearing committee members to** hear and determine attacks on the validity of subpoenas issued pursuant to Enforcement Rule 213(a)(2) (relating to subpoena power, depositions and related matters), as provided in Enforcement Rule 213(d)(2); or

(iii) **senior or experienced hearing committee members to** consider a petition for reinstatement to active status from retired or inactive status, or administrative suspension, under Enforcement Rule 218 (relating to reinstatement) of a formerly admitted attorney who has not been suspended or disbarred.

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Rule 206. Hearing committees and special masters.

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(b) Hearing committees shall have the power and duty:

(1) To conduct investigatory hearings and hearings into formal charges of misconduct upon assignment by the Board [**or the Secretary of the Board**] (see Enforcement Rule 205(c)(5)).

(2) To submit their conclusions set forth as prescribed by Board rules, together with the record of the hearing, to the Board.

(c) If a member of a hearing committee becomes disqualified or otherwise unavailable to serve with respect to any particular matter, the [**Secretary**] **Board** shall designate a replacement.

(d) A special master instead of a hearing committee may be assigned by the Board to conduct an investigatory hearing or formal proceeding [**where it appears that**

the hearing or proceeding may be protracted and should be conducted continuously from day to day until conclusion].

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Rule 208. Procedure.

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(f) *Emergency temporary suspension orders and related relief.*

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(4) The respondent-attorney may at any time petition the Court for dissolution or amendment of an order of temporary suspension. A copy of the petition shall be served upon Disciplinary Counsel and **filed with** the [**Secretary of the**] Board **Prothonotary**. A hearing on the petition before a member of the Board designated by the Chair of the Board shall be held within ten business days after [**service**] **filing** of the petition [**on**] **with** the [**Secretary of the**] Board **Prothonotary**. The designated Board member shall **hear** the petition and submit a transcript of the hearing and a recommendation to the Court within five business days after the conclusion of the hearing. Upon receipt of the recommendation of the designated Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

(5) The Board on its own motion, or upon the petition of Disciplinary Counsel, may issue a rule to show cause why the respondent-attorney should not be placed on temporary suspension whenever it appears that the respondent-attorney has disregarded an applicable provision of the Enforcement Rules, failed to maintain or produce the records required to be maintained and produced under Pa.R.P.C. 1.15(c) and subdivisions (e) and (g) of Enforcement Rule 221 in response to a request or demand authorized by Enforcement Rule 221(g) or any provision of the Disciplinary Board Rules, failed to comply with a valid subpoena, or engaged in other conduct that in any such instance materially delays or obstructs the conduct of a proceeding under these rules. The rule to show cause shall be returnable within ten days. If the response to the rule to show cause raises issues of fact, the Board Chair may direct that a hearing be held before a member of the Board who shall submit a report to the Board upon the conclusion of the hearing. If the period for response to the rule to show cause has passed without a response having been filed, or after consideration of any response and any report of a Board member following a hearing under this paragraph, the Board may recommend to the Supreme Court that the respondent-attorney be placed on temporary suspension. The recommendation of the Board shall be reviewed by the Supreme Court as provided in subdivision (e) of this rule, although the time for either party to file with the Court a petition for review of the recommendation or determination of the Board shall be fourteen days after the entry of the Board's recommendation or determination, and any answer or responsive pleading shall be filed within ten days after service of the petition for review.

(6) A respondent-attorney who has been temporarily suspended pursuant to this rule for conduct described in paragraph (1), or pursuant to the procedures of paragraph (5) where a formal proceeding has not yet been commenced shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the [**Secretary of the**] Board **Prothonotary** and Disciplinary

Counsel requesting accelerated disposition. Within 30 days after filing of such a notice, Disciplinary Counsel shall file a petition for discipline under subdivision (b) of this rule and the matter shall be assigned to a hearing committee for accelerated disposition. Thereafter the matter shall proceed and be concluded by the hearing committee, the Board and the Court without appreciable delay. If a petition for discipline is not timely filed under this paragraph, the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this rule.

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Rule 209. Immunity.

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(b) Complaints against members of the Board involving alleged violations of the Disciplinary Rules or these rules shall be handled in the same manner as other complaints, except that if action is required by the Board the [**Secretary**] **Board Prothonotary** shall notify the Supreme Court which shall appoint an Ad Hoc Disciplinary Board comprised of five former members of the Board who shall discharge the functions of the Board and have all the powers of the Board with respect to that one matter only.

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Rule 214. Attorneys convicted of crimes.

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(d)(1) Upon the filing with the Supreme Court of a certified copy of an order demonstrating that an attorney has been convicted of a crime, the Court may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days.

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(4) The respondent-attorney may at any time petition the Court for dissolution or amendment of an order of temporary suspension. A copy of the petition shall be served upon Disciplinary Counsel and **filed with** the [**Secretary of the**] **Board Prothonotary**. A hearing on the petition before a member of the Board designated by the Chair of the Board shall be held within ten business days after [**service**] **filing** of the petition [**on**] **with** the [**Secretary of the**] **Board Prothonotary**. The designated Board member shall hear the petition and submit a transcript of the hearing and a recommendation to the Court within five business days after the conclusion of the hearing. Upon receipt of the recommendation of the designated Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

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(f)(1) Upon the filing of a certificate of conviction of an attorney for a crime, Disciplinary Counsel may commence either an informal or formal proceeding under Enforcement Rule 208, except that Disciplinary Counsel may institute a formal proceeding before a hearing committee or special master by filing a petition for discipline with the Board without seeking approval for the prosecution of formal charges under Enforcement Rule 208(a)(3). If a petition for discipline is filed, a hearing on the petition shall be deferred until sentencing and all direct appeals from the conviction have been concluded. The sole issue at the hearing shall be the extent of the discipline or,

where the Court has temporarily suspended the attorney under subdivision (d) of this rule, the final discipline to be imposed.

Official Note: subdivision (f)(1) authorizes Disciplinary Counsel to proceed under Rule 208 concurrently with the Court's exercise of jurisdiction under subdivision (d) of this Rule.

(2) Notwithstanding the provision of paragraph (1) that a hearing shall not be held until sentencing and all appeals from a conviction have been concluded, a respondent-attorney who has been temporarily suspended pursuant to this rule shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the [**Secretary of the**] **Board Prothonotary** and Disciplinary Counsel requesting accelerated disposition. Within 30 days after filing of such a notice, Disciplinary Counsel shall file a petition for discipline, if such a petition has not already been filed, and the matter shall be assigned to a hearing committee for accelerated disposition. The assignment to a hearing committee shall take place within seven (7) days after the filing of such a notice or the filing of a petition for discipline, whichever occurs later. Thereafter the matter shall proceed and be concluded by the hearing committee, the Board and the Court without appreciable delay. If a petition for discipline is not timely filed or assigned to a hearing committee for accelerated disposition under this paragraph, the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this rule.

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Rule 215. Discipline on Consent.

a) *Voluntary resignation.*—An attorney who is the subject of an investigation into allegations of misconduct by the attorney may submit a resignation, but only by delivering to Disciplinary Counsel or the [**Secretary of the**] **Board Prothonotary** a verified statement stating that the attorney desires to resign and that:

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(6) the attorney is aware that pursuant to subdivision (c) of this Rule, the fact that the attorney has tendered his or her resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the [**Secretary of the**] **Board Prothonotary**;

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(b) *Order of disbarment.*—Upon receipt of the required statement, the [**Secretary of the**] **Board Prothonotary** shall file it with the Supreme Court and the Court shall enter an order disbarring the attorney on consent.

(c) *Confidentiality of resignation statement.*—The fact that the attorney has submitted a resignation statement to Disciplinary Counsel or the [**Secretary of the**] **Board Prothonotary** for filing with the Supreme Court shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the [**Secretary of the**] **Board Prothonotary**. The order disbarring the attorney on consent shall be a matter of public record. If the statement required under the provisions of subdivision (a) of this rule is submitted before the filing and service of a petition for discipline and the filing of an answer or the time to file an answer has expired, the statement shall not be

publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement proceeding except:

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Rule 216. Reciprocal discipline and disability.

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(e) An attorney who has been transferred to disability inactive status or disciplined in another court or by any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys by any state or territory of the United States or of the District of Columbia, a United States court, or by a federal administrative agency or a military tribunal, by suspension, disbarment, or revocation of license or pro hac vice admission, or who has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction, shall report the fact of such transfer, suspension, disbarment, revocation or resignation to the [**Secretary of the**] Board **Prothonotary** within 20 days after the date of the order, judgment or directive imposing or confirming the discipline or transfer to disability inactive status.

Rule 217. Formerly admitted attorneys.

(a) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the [**Secretary of the**] Board **Prothonotary** and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices).

Official Note: Notice may be accomplished, for example, by delivery in person with the lawyer securing a signed receipt, electronic mailing with some form of acknowledgement from the client other than a “read receipt,” and mailing by registered or certified mail, return receipt requested.

(b) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly

admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), supra. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the [**Secretary of the**] Board **Prothonotary** and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

(c) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status:

(1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status;

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing; and

(3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), supra. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the [**Secretary of the**] Board **Prothonotary** and shall serve a conforming copy on the Office of Disciplinary Counsel. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status.

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(e)(1) Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the [**Secretary of the**] Board **Prothonotary** a verified statement and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall:

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Rule 218. Reinstatement.

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(d) The procedure for petitioning for reinstatement from: retired status for more than three years; inactive status for more than three years; administrative suspension for more than three years; retired status, inactive status or administrative suspension if the formerly admit-

ted attorney has not been on active status at any time within the past three years; or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

(1) Petitions for reinstatement shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall either:

(i) file a response thereto with the Board and serve a copy on the formerly admitted attorney; or

(ii) file a certification with the Board [**Secretary Prothonotary**] stating that after a review of the petition for reinstatement and reasonably diligent inquiry, Disciplinary Counsel has determined that there is no impediment to reinstatement and that the petitioner-attorney will meet his or her burden of proof under paragraph (d)(3) if the petition were to proceed to hearing under (d)(4).

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(6) Upon receipt of a certification filed by Disciplinary Counsel under (d)(2)(ii), the Board Chair shall designate a single member of the Board to review the record and certification and to issue a report and recommendation.

(i) If the Board Member decides that reinstatement should be denied or that a hearing on the petition is warranted, the designated Board Member shall issue a report setting forth the areas of the designated Board Member's concern and direct [**the Board Secretary to schedule**] that the matter **be scheduled** for hearing pursuant to subdivision (d)(4) of this rule.

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Rule 219. Annual registration of attorneys.

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(g) The Attorney Registration Office shall provide to the [**Office of the Secretary**] Board **Prothonotary** a copy of any certification filed by the Attorney Registration Office with the Supreme Court pursuant to the provisions of this rule.

(h) An attorney who has been administratively suspended pursuant to subdivision (f) for three years or less is not eligible to file the annual fee form electronically. The procedure for reinstatement is as follows:

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(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the [**Office of the Secretary**] Board **Prothonotary** and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

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Subchapter C. DISABILITY AND RELATED MATTERS

Rule 301. Proceedings where an attorney is declared to be incapacitated or severely mentally disabled.

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(e) If, during the course of a disciplinary proceeding, the respondent contends that the respondent is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which makes it impossible for the respondent to prepare an adequate defense, the respondent shall complete and file with the Court a certificate of admission of disability [**available to the bar through the Office of the Secretary to the Board**]. The respondent shall serve a copy of the certificate on the Board **Prothonotary** and disciplinary counsel. The certificate shall:

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Subchapter D. MISCELLANEOUS PROVISIONS

Rule 401. Expenses.

The salaries of the [**Secretary of the Board, Disciplinary Counsel and staff**] **Disciplinary Board employees**, their expenses, administrative costs, and the expenses of the members of the Board [**and of**], hearing committees **and special masters** shall be paid by the Board out of the funds collected under the provisions of Enforcement Rule 219 (relating to annual registration of attorneys) **and Enforcement Rule 208 (relating to costs)**. The Board shall annually obtain an independent audit by a certified public accountant of the funds entrusted to it and their disposition and shall file a copy of such audit with the Court.

Rule 403. Emeritus Status.

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(f) *Approval of Eligible Legal Aid Organization.* Prior to the commencement of services described in (d), the emeritus attorney shall submit an Eligible Legal Aid Organization Form to the [**Secretary of the Board**] **Attorney Registration Office** for approval. The emeritus attorney shall submit a separate form for each eligible legal aid organization for which the attorney expects to perform pro bono services. The form shall include the following:

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[Pa.B. Doc. No. 18-1852. Filed for public inspection November 30, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ADAMS COUNTY

Rules of Judicial Administration; Administrative Order Number 11 of 2018

Order of Court

And Now, this 29th day of October, 2018, *It Is Hereby Ordered* that Adams County Rules of Judicial Administration 4007, 4008 and 4011 are vacated in their entirety, to be replaced as follows:

4007. Request for Transcripts.

(a) All requests for transcripts shall be set forth on a standardized form approved by the Administrative Office of Pennsylvania Courts and provided by the 51st Judicial District and available at the office of District Court Administrator of Adams County and the Adams County website. The form shall indicate the current rates authorized to be charged for transcripts under these rules. Requestors may also use the standardized form as created by the District Court Administrator of Pennsylvania.

(b) For an ordinary transcript, the party requesting a full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office (Clerk of Courts, Prothonotary, Orphans Court, or Domestic Relations Office) in which the litigation is pending. The requesting party shall also serve copies of the formal request to:

- (1) the Judge presiding over the matter,
- (2) the Court Reporter, Recorder, or Transcriptionist assigned to the proceeding,
- (3) the District Court Administrator, and
- (4) opposing counsel or party if the party is unrepresented.

(c) Where daily, expedited, or same day transcripts are requested, request for those transcripts shall be filed in writing in the appropriate filing office at least ten (10) days prior to the proceeding with copies of the request delivered as required by paragraph (b). Where justice requires and ten (10) days prior notice cannot reasonably be provided, requests for daily, expedited, or same day transcripts shall be made by oral motion to the presiding Judge.

(d) Following receipt of a request for transcript, the presiding Judge shall forthwith produce an order:

- (1) setting forth the amount of the deposit which shall be 75 percent of the anticipated total cost of the transcript and directing the transcript to be prepared upon payment of the deposit;
- (2) setting a reduced payment rate and directing the transcript to be prepared upon payment of the reduced rate; or
- (3) approving or denying an economic hardship exemption and, where applicable, directing preparation of the transcript.

(e) Upon receipt of the court order referenced in subparagraph (d) above, the filing office shall make service of the same on the requestor. If deposit or reduced payment is required, the payment shall be paid to the filing office prior to commencement of transcript preparation. Upon receipt of the payment, the filing office shall promptly advise Court Administration of the same who thereafter shall direct the Court Reporter to prepare the transcript.

(f) A request for a copy of any transcript previously ordered, transcribed, and filed of record shall comply with Adams R.J.A. 4007(a). After the Court has set the amount to be paid, and upon satisfaction of any financial obligation related to the request, the Court Reporter shall provide a copy to the requesting party.

4008. Transcript Costs.

(a) Costs payable by a requesting party other than the Commonwealth or subdivision thereof to produce an Original transcript shall be:

- (1) for an ordinary transcript, \$2.50 per page,
- (2) for an expedited transcript, \$3.50 per page,
- (3) for a daily transcript, \$4.50 per page, and
- (4) for same day delivery, \$6.50 per page.

(b) Costs payable by the Commonwealth or subdivision thereof to produce an Original transcript shall be:

- (1) for an ordinary transcript, \$1.55 per page,
- (2) for an expedited transcript, \$1.75 per page,
- (3) for a daily transcript, \$2.00 per page, and
- (4) for same day delivery, \$4.00 per page.

(c) Regardless of whether the request is made by a party or the Commonwealth or subdivision thereof, in order to obtain a copy of the Original transcript, costs payable by the requesting party shall be 50 cents per page for an electronic copy and/or 75 cents per page for a bound, paper copy in addition to any cost incurred for the production of the original.

(d) *Economic hardship.*

(1) A party seeking consideration of an economic hardship related to obtaining a transcript may petition the Court in utilizing the in forma pauperis self-help packet available at the Adams County Law Library or online at www.adamscounty.us. In order for a party to be considered for economic hardship, the in forma pauperis self-help packet must be fully completed and verified.

(2) A transcript requested by Legal Aid Services must include with the request for transcript a letter of certification verifying that the client meets financial eligibility and the matter is under appeal or the transcript being requested is necessary to advance the current litigation.

(e) Except as otherwise set forth in this rule, no filing fee shall be assessed to a litigant filing a request for transcript.

4011. Delivery of Transcript.

(a) The Court Reporter shall notify the requesting party and the District Court Administrator or designee upon completion of the transcript and shall indicate the balance to be paid at the respective filing office.

(b) The District Court Administrator or designee shall notify the filing office of the balance owed.

(c) Upon completion of the transcript, the Court Reporter shall file it of record and the deposit paid, if any, shall be applied to the cost of production of the original.

(1) No copy of a transcript shall be provided to any party unless an original transcript has been filed of record and the cost of the copy being sought, if any, has been paid.

(2) If a Judge requires a transcript that has not been filed of record, regardless if there are any current requests for the transcript from any party, the requesting Judge shall direct the Court Re-

porter to create and file the transcript of record and, once filed, to produce a copy to the requesting Judge. Thereafter, any further requests by any party shall be charged at the copy rate.

(d) Upon payment of the balance owed to the filing office, the filing office shall notify Court Administration, and thereafter the Court Reporter shall deliver a copy to the requesting party.

It Is Further Directed that:

a. One copy of this Order shall be forwarded to the Administrative Office of the Pennsylvania Courts via e-mail to adminrules@pacourts.us;

b. Upon notification from the AOPC that the local rule is not inconsistent with the policy, two (2) certified copies of this Order together with a computer diskette that complies with the requirement of 1 Pa. Code § 13.11(b), or other compliant format, containing the text of the local rule(s) adopted hereby shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. A copy of the proposed local rule(s) shall be published on the 51st Judicial District website;

d. This Order shall be filed in the Office of the Prothonotary of Adams County and a copy thereof shall be filed with the Adams County Clerk of Courts and the Adams County Law Library for inspection and copying;

e. The effective date of the local rule(s) shall be 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

MICHAEL A. GEORGE,
President Judge

[Pa.B. Doc. No. 18-1853. Filed for public inspection November 30, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ERIE COUNTY

**Local Rules of Criminal Procedure 590 and 700;
Doc. No. 32-2018**

Order

And Now, to wit, this 8th day of November, 2018, it is hereby *Ordered, Adjudged, and Decreed* that former Erie County Local Rule of Criminal Procedure 590 has been revised, as set forth as follows. Additionally, Erie County Local Rule of Criminal Procedure 700 has been approved. In accordance with Pennsylvania Rule of Judicial Administration 103(d), Erie County Local Rules of Criminal Procedure 590 and 700 shall be effective 30 days following publication in the *Pennsylvania Bulletin* and on the Erie County website at <https://www.eriecountypa.gov/courts/courts-info/local-rules>.

JOHN J. TRUCILLA,
President Judge

Rule 590. Pleas and Plea Agreements.

A defendant may enter a plea of guilty or, with the consent of the judge, *nolo contendere* pursuant to a plea agreement at any time prior to the verdict.

If a defendant enters a plea of guilty or, with the consent of the judge, *nolo contendere* before the Court no later than ten (10) days after arraignment, the defendant may have the option of assignment to another judge of the trial division, other than the original assigned judge, for purposes of sentencing.

If a defendant applies for ARD/PWOV or Treatment Court programs within ten (10) days after arraignment but the application is denied, the defendant may enter a plea of guilty or, with the consent of the judge, *nolo contendere* before the Court no later than ten (10) days after the denial of the application and may have the option of assignment to another judge of the trial division, other than the original assigned judge, for purposes of sentencing.

Rule 700. Sentencing Judge.

A sentence on a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received a plea of guilty or *nolo contendere*. In such event, the defendant must be so notified at the time of making the plea. See Pa.R.Crim.P. 700(B). The defendant shall have the option, with the consent of the judge, to be immediately sentenced by the judge taking the plea; however, if the sentence is deferred, the sentence shall be imposed by the judge who was originally assigned the case.

In the event a defendant enters a plea of guilty or *nolo contendere* within (10) days after arraignment or refusal from the ARD/PWOV or Treatment Court programs, the post-arraignment plea judge shall be responsible for sentencing the defendant.

[Pa.B. Doc. No. 18-1854. Filed for public inspection November 30, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Adoption of Local Rules of Civil Procedure; 1910.12(c)*. Motion to Designate Support Case as Complex; 1910.12(c)(3)*. Scheduling/Discovery of Complex Support Matters Before Hearing Officer in Support; 1910.12(f)*. Exceptions to Recommendations of Hearing Officer in Support; No. 2018-00001-0006

Order

And Now, this 14th day of November, 2018, the Court hereby Adopts Montgomery County Local Rules of Civil Procedure 1910.12(c)*. Motion to Designate Support Case as Complex; 1910.12(c)(3)*. Scheduling/Discovery of Complex Support Matters Before Hearing Officer in Support; 1910.12(f)*. Exceptions to Recommendations of Hearing Officer in Support. These Rules shall become effective on January 1, 2019.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in *The Legal Intelligencer*. In conformity with Pa.R.J.A. 103, one (1) certified copy of this Order shall be filed with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Law Library

of Montgomery County, and one (1) copy with each Judge of this Court. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules.

By the Court

THOMAS M. DeRICCI,
President Judge

Rule 1910.12(c)*. Motion to Designate Support Case as Complex.

In accordance with Pa.R.C.P. 1910.12, if a party seeks to designate a support matter as complex, that party shall file a Motion to Designate Case as Complex in substantially the form as set forth on the Court's website.

Comments:

1 The form referenced in this rule is available online at www.montcopa.org/courts;

2 Examples of cases that may be deemed complex include, but are not limited to, the following: self-employment income, earning capacity, complex compensation/tax issues and cases that may require expert witnesses in order to arrive at a determination of income.

Rule 1910.12(c)(3)*. Scheduling/Discovery of Complex Support Matters Before Hearing Officer in Support.

Upon the designation of a support matter as complex, the Hearing Officer in Support shall issue a discovery and scheduling order in substantially the form as set forth on the Court's website.

Comment: The form referenced in this rule is available online at www.montcopa.org/courts

Rule 1910.12(f)*. Exceptions to Recommendations of Hearing Officer in Support.

If a party seeks to except to the Recommendations of the Hearing Officer in Support, that party shall file Exceptions in substantially the form as set forth on the Court's website.

The Court shall process Exceptions to Recommendations of the Hearing Officer in Support in accordance with its Order and Briefing Schedule in substantially the form as set forth on the Court's website.

Comment: The forms referenced in this rule are available online at www.montcopa.org/courts

[Pa.B. Doc. No. 18-1855. Filed for public inspection November 30, 2018, 9:00 a.m.]