



DISCIPLINARY RULES OF PROCEDURE

As adopted by the Board of Governors

July 9, 2014

DISCIPLINARY RULES OF PROCEDURE

I. SCOPE OF RULES

Rule 1. The Disciplinary Rules of Procedure (DRP).

(a) Scope. These rules govern procedures before the Northern and Southern Nevada Disciplinary Boards pursuant to SCR 99-123, involving prosecution and adjudication of attorney misconduct and incapacity. Nothing in these rules shall be construed to limit or alter the inherent and exclusive authority of the Supreme Court in the regulation and discipline of attorneys.

(b) Purpose. The purpose of the rules is to expedite disciplinary hearings through procedures designed to streamline presentation of evidence, facilitate coordination of discovery and scheduling of hearing panels, while ensuring the just and proper administration of attorney regulation.

(c) Applicability of other rules. Except as otherwise provided in the Supreme Court Rules, the Nevada Rules of Civil Procedure (NRCP) and Nevada Rules of Appellate Procedure (NRAP) shall apply in disciplinary cases. *See* SCR 119(2). The rules applicable to the admission of evidence in the district courts of Nevada govern admission of evidence in disciplinary cases. *See* SCR 105(2)(f).

(d) Adoption of rules. Pursuant to SCR 105(4), these rules have been promulgated and adopted by the respective Board chairs and approved by the Board of Governors.

Rule 2. Disciplinary Board Chair and Vice Chair. Each disciplinary district shall have one (1) disciplinary board chair and one (1) disciplinary board vice chair. The disciplinary board chair or vice chair shall designate panels for screening panels; hearing panel chairs for hearings; and remaining hearing panel members to serve on a three (3) or five (5) member panel. *See* SCR 103.

Rule 3. Screening panels. Screening panels shall consist of three (3) board members, one (1) of which shall be a non-lawyer, to preside over the screening panels. The chair or vice chair shall designate one (1) attorney panel member to be the chair of the screening panel.

Rule 4. Hearing panel chair. Hearing panel chairs shall preside over all hearings and rule on any motions prior to the hearing.

(a) Assignment of hearing panel chair. Within thirty (30) days following the service of a responsive pleading, or upon failure to plead, the disciplinary board chair or vice chair shall appoint a hearing panel chair to preside over the case. The selection of the presiding hearing panel chair shall be a random assignment by disciplinary board chair after consideration of the following:

(1) Peremptory challenges. The respondent and bar counsel may exercise five (5) peremptory challenges from the list of members of the appropriate disciplinary board by delivering the challenges to bar counsel prior to the date the response to the complaint is due. See SCR 105(2)(a).

(2) Challenges for cause. Challenges to remove a panel chair for cause under SCR 103(7) shall be made as soon as possible after receiving notice of the grounds for disqualification. The challenge shall be made in the form of motion to the chair. See SCR 105(2)(a).

(3) Screening panel exemption. A screening panel who reviewed bar counsel's recommendation on a grievance shall not be appointed to a hearing panel for any subsequent and related proceedings.

Rule 5. Remaining Hearing Panel Members. All hearings shall be conducted before a three (3) or five (5) person hearing panel. The hearing panel chair shall be one (1) of those panel members. A hearing panel as finally constituted shall include a non-lawyer.

(a) Assignment of remaining panel members. The disciplinary board chair or vice chair shall appoint the remaining hearing panel members, including alternates, of a three (3) or five (5) person panel within forty-five (45) days of the hearing date. The selection of the remaining hearing panel members will be assigned based on their availability for the hearing date and in accordance with the processes detailed in DRP 4(1) – (3) above.

(1) Three-person panel. In the instance of a three (3) person hearing panel, such as conditional guilty plea hearing under SCR 113, the disciplinary board chair or vice chair shall appoint one (1) member from the bar and one (1) layperson. The panel chair shall act as the third person. One (1) alternate attorney member and one (1) alternate layperson shall also be appointed in the event of a conflict or challenge.

(2) Five-person panel. In the instance of a five (5) person hearing panel, the disciplinary board chair or vice chair shall appoint three (3) members from the bar and one (1) layperson. The panel chair shall act as the fifth person. One (1) alternate attorney member and one (1) alternate layperson shall also be appointed in the event of a conflict or challenge.

II. SCREENING HEARINGS

Rule 6. Screening panel. At the conclusion of the investigation of a grievance file, bar counsel shall present the matter to a screening panel.

(a) Dedicated screening panels. The disciplinary board chair or vice chair shall designate up to three (3) separate dedicated screening panels. These dedicated panel members will sit on the screening panel continuously for term not to exceed six (6) months.

(b) Frequency of the screening hearings. The screening hearings may be conducted up to twice per month on dates pre-determined and scheduled one (1) year in advance. The dedicated screening panels will alternate screening dates. Thus, each of the three (3) screening panels will meet once every six (6) weeks.

(c) Variation. The disciplinary board chair, in consultation with bar counsel, may reduce the frequency of screening hearings as the volume of investigations may dictate.

Rule 7. Screening hearing. Bar counsel shall be present at the screening hearing, along with the investigator assigned to the case and the hearing administrator.

(a) Bar counsel's written recommendation. Bar counsel shall prepare a written summary of the facts of the case, along with a written recommendation for each matter presented at the screening. See SCR 105(1)(a).

(b) Form of recommendation. The screening packet with the summary and recommendation will be provided in electronic format no less than three (3) business days before a screening hearing.

Rule 8. Decision of the screening panel. After reviewing the recommendation submitted by bar counsel, the screening panel shall decide, by majority vote, whether to approve, reject, or modify the recommendation or continue the matter for review by another screening panel. The options available to a screening panel are:

(a) Hold the matter over for further investigation.

(b) Dismissal with or without prejudice.

(c) Diversion or mentoring pursuant to SCR 105.5.

(d) Letter of caution issued by bar counsel, which is a dismissal but cautions the attorney regarding specific conduct and/or disciplinary rules. A letter of caution may not be used as an aggravating factor in any subsequent disciplinary proceeding.

(e) Letter of reprimand, with or without conditions, including but not limited to restitution, a fine of up to \$1,000, or both a reprimand and a fine, imposed by a screening panel of the disciplinary board pursuant to SCR 105(1). The screening panel chair shall sign the proposed reprimand.

(f) Filing a written complaint for formal hearing.

(g) In accordance with SCR 111, the Screening Panel Chair shall enter a written order of the disciplinary action, if any, to be imposed regarding an attorney who has been convicted of a misdemeanor involving the use of alcohol or a controlled substance and it is not their first offense.

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III. INFORMAL HEARINGS.

Rule 9. Informal hearings. Informal hearings apply when: (1) respondent objects to a letter of reprimand and requests an informal hearing, and (2) for an alleged breach of a diversion, probation, or mentoring agreement. *See* SCR 102(1)(b) and SCR 105.5.

Rule 10. Respondent's objection. Respondent's objection must include the basis of the objection, and election of formal or informal hearing.

Rule 11. Notice of Members of Disciplinary Board. Following respondent's objection and election for informal hearing, bar counsel shall provide respondent with the list of current disciplinary board members, along with a cover letter, advising respondent that they can exercise peremptory challenges. Both respondent and bar counsel must file any peremptory challenges within twenty (20) days of service. *See* SCR 105(2)(a).

Rule 12. Appointment of panel members. Bar counsel shall confer with respondent, in person or via telephone, and choose a hearing date. The disciplinary board chair or vice chair shall appoint a three (3) person panel, designating one (1) attorney member as the panel chair.

Rule 13. Notice of informal hearing. Bar counsel shall provide notice of informal hearing to respondent at least thirty (30) days prior to the informal hearing.

Rule 14. Informal hearing packets. Bar counsel shall prepare and provide to respondent and the informal hearing panel a hearing packet in electronic format no less than five (5) business days prior to the commencement of the hearing. The packet includes: all correspondence in the file, any filed notices along with the procedural options available to Panel (uphold Letter of Reprimand, reduce to a letter of caution or dismiss).

Rule 15. The informal hearing. No court reporter is present during an informal hearing. If respondent wishes to have a court reporter present, respondent shall arrange in advance for court reporter at their own expense. *See* SCR 105(2)(g). Respondent shall be given the opportunity to appear, to present oral argument, and to present evidence related to the written objections or any relevant issue. Bar counsel shall prove the violations of rules of professional conduct by clear and convincing evidence. The applicable rules of evidence govern the hearing and the hearing panel chair makes evidentiary rulings.

Rule 16. Decision. The informal hearing panel shall either uphold all or part of letter of reprimand, or can reduce it to letter of caution or dismiss the matter. The panel cannot add charges or find additional violations. The decision of the informal hearing panel is final and cannot be appealed. *See*, SCR 105(1)(c).

IV. FORMAL HEARINGS

Rule 17. Formal Hearings. Formal hearings apply to: (1) matters so voted by a screening panel, (2) Respondents who object to a letter of reprimand and elect a formal hearing, and (3) convictions for serious crimes following temporary suspension. Only a formal hearing panel may recommend or impose public discipline (public reprimand, suspension, disbarment). See, SCR 102; 105(1)(a). As referenced in DRP 5 above, the disciplinary board chair or vice chair shall designate a hearing panel consisting of either three (3) panel members or five (5) panel members and one (1) alternate attorney member and one (1) alternate laymember.

A. PLEADINGS AND MOTIONS; DISCOVERY AND PRE-HEARING PROCEDURE

Rule 18. Filing and service of documents.

(a) Filing. All documents are to be filed with the Office of Bar Counsel, unless specified by Supreme Court Rule. Documents to be filed before the Northern Disciplinary Board shall be filed with the Office of Bar Counsel in the Reno office. Documents to be filed before the Southern Disciplinary Board shall be filed with the Las Vegas office. If a file-stamped copy is desired, an original and one (1) copy shall be provided.

(b) Service of documents. See SCR 109.

(1) Service of complaint. Service of the complaint shall be made by personal service by any person authorized in the manner prescribed by NRCP 4(c), or by certified mail at the current address shown in the state bar's records or other last known address. See SCR 109.

(2) Answer. Respondent shall serve his *original verified* answer on bar counsel by delivering a copy to the office of bar counsel or via mail.

(3) Service of other papers. Service of other papers or notices required by the Supreme Court Rules, shall be made in accordance with NRCP 5, unless the hearing panel chair orders otherwise.

Rule 19. Formal Complaint. Bar counsel shall file a formal complaint that is sufficiently clear and specific to inform respondent of the charges against him or her and the underlying conduct supporting the charges and shall direct that respondent serve a verified response or answer on bar counsel. See SCR 105(2).

Rule 20. Notice of Members of Disciplinary Board. The complaint shall be accompanied by the list of members of the appropriate disciplinary board. The names of the screening panel members that heard bar counsel's recommendation shall be stricken.

(a) Peremptory Challenges. Prior to the filing of the response to the complaint, bar counsel and respondent may exercise five (5) peremptory challenges each to the people on the

first designation of panel members. The peremptory challenges shall be delivered to bar counsel and filed by the hearing administrator.

(b) Challenges for Cause. A challenge for any member for cause under SCR 103(7) shall be made by motion to the hearing panel chair as soon as possible after receiving either actual or constructive notice of the grounds for disqualification. In no event will a motion seeking the disqualification of a member be timely if the member has already heard, considered or ruled upon any contested matter, except as to grounds based on fraud or like illegal conduct of which the challenging party had no notice until after the contested matter was considered. Any challenge that is not raised in a timely manner shall be deemed waived.

Rule 21. Verified Response or Answer. Respondent shall file a verified response or answer and serve it on bar counsel within twenty (20) days of service of the formal complaint. The answer shall admit or controvert the averments set forth in the complaint by specifically denying designated averments or paragraphs or generally denying all averments except such designated averments or paragraphs as the respondent expressly admits. If the respondent lacks knowledge or information sufficient to form a belief as to the truth of an averment, he or she shall so state and his statement shall be considered a denial. If in good faith the respondent intends to deny only a part of an averment, he or she shall specify so much of it as is true and material and deny the remainder. All denials shall fairly meet the substance of the averments denied. Averments in a complaint are admitted when not denied in the answer. The answer shall assert any legal defense.

(a) Extension of time to file answer. The time to respond may be extended once by the disciplinary board chair or vice chair, or hearing panel chair (if appointed) for not more than twenty (20) days for good cause or upon stipulation of the parties.

(b) Failure to verify the response or answer. If respondent files a response or answer that is unverified, bar counsel shall make a written request to provide a verified answer within five (5) days. If respondent fails to file a verified answer, then bar counsel shall file a motion to strike. This motion will be heard by the hearing panel chair.

(c) Failure to file verified response or answer. In the event the respondent fails to plead, bar counsel shall file a Notice of Intent to Proceed on Default Basis. This Notice of Intent shall be served on the respondent with a date to file a verified answer that is twenty (20) days from the date of filing the notice. A copy of the Complaint and First Designation shall also accompany the notice of intent. If the respondent fails to respond after the notice of intent is served, the charges in the complaint shall be deemed admitted. However, respondent may thereafter obtain permission of the hearing panel chair in the form of a motion to file a verified answer, if failure to file is attributable to mistake, inadvertence, surprise, or excusable neglect.

Rule 22. Motions or stipulations; rulings to be written and filed. The hearing panel chair, if appointed, shall hear and decide all motions or stipulations. All rulings issued by the hearing

panel chair shall be in writing and filed with the appropriate disciplinary board through the office of bar counsel.

Rule 23. Initial conference with the hearing panel chair. Within thirty (30) days after the appointment of the hearing panel chair, the parties shall meet, in person or via telephone, with the hearing panel chair to discuss issues relating to discovery and determine a date and time for the hearing. The extent to which discovery is allowed is in the discretion of the hearing panel chair and as allowed pursuant to SCR 105 and SCR 110. The hearing panel chair shall resolve all disputes relating to discovery.

(a) Disclosure of Witnesses and Documents. Bar counsel will disclose its witnesses and documents at the initial case conference. Respondent and bar counsel will disclose and exchange its final witness and document list thirty (30) days prior to the hearing.

(b) Settlement discussions. The parties can also discuss the possibility of settlement and if deemed advisable, the hearing panel chair may order the parties to engage in a settlement conference before another attorney member of the disciplinary board or former member of the disciplinary board who reached their lifetime term limit.

Rule 24. Discovery.

(a) Restriction on discovery. Pursuant to SCR 110(5), discovery by respondent is not permitted prior to the hearing, other than what is allowed under SCR 105(2)(d), except by order of hearing panel chair for good cause upon motion.

(b) Deposition in lieu of appearance. With the approval of the hearing panel chair, testimony may be taken by deposition or by commission if the witness is not subject to subpoena or is unable to attend or testify at the hearing because of age, illness, or other infirmity. *See* SCR 110(7).

(c) Confidentiality of deposition. Depositions are subject to the protective requirements and confidentiality provided in Rule 121. *See* SCR 110(8).

Rule 25. Subpoenas. *See* SCR 110.

(a) Issuance of subpoenas by bar counsel and hearing panels. Bar counsel and attorney members of hearing panels, may administer oaths and affirmations and issue and compel by subpoena the attendance of witnesses and the production of pertinent books, papers, and documents. Subpoena and witness fees and mileage shall be the same as in a district court.

(b) Respondent can subpoena. Respondent may also compel by subpoena the attendance of witnesses and the production of pertinent books, papers, and other documents

before a hearing panel. Subpoena and witness fees and mileage shall be the same as in a district court.

(c) Attachment of person for failure to obey subpoena or produce documents. Whenever any person subpoenaed to appear and give testimony or to produce books, papers, or other documents as required by subpoena, or requested to provide documents pursuant to SCR 78.5(1)(b), refuses to appear or testify before a hearing panel, or to answer any pertinent or proper questions, or to provide the requested documents, that person shall be deemed in contempt of the disciplinary board, and the chair of the disciplinary board shall report the fact to a district judge of the county in which the hearing is being held or the investigation conducted. The district court shall promptly issue an attachment in the form usual in the court, directed to the sheriff of the county, commanding the sheriff to attach such person and bring such person forthwith before the court. On the return of the attachment, and the production of the person attached, the district court shall have jurisdiction of the matter; and the person charged may purge himself or herself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a district court of the State of Nevada.

(d) Contest of subpoena. A contest of a subpoena shall be heard and determined by the hearing panel chair.

Rule 26. Assignment of remaining hearing panel. Once the formal hearing date and time is confirmed by bar counsel, respondent and the hearing panel chair, then the remaining panel will be appointed. The hearing shall be conducted within forty-five (45) days of the appointment of the remaining panel.

Rule 27. Notice of formal hearing, designation of witnesses and exhibits. Bar counsel shall give the respondent at least thirty (30) days' written notice of the hearing date, time and place. The notice shall be served in the same matter as the complaint. The notice shall be accompanied by a summary prepared by bar counsel of the evidence against the attorney, and the names of the witnesses bar counsel intends to call, other than those called to impeachment purposes, along with a brief statement of the facts to which the witness will testify. All these items may be inspected by respondent up to three (3) days prior to the hearing. Respondent will also disclose its final list of witnesses and documents thirty (30) days prior to the hearing.

Rule 28. Prehearing conference. No later than ten (10) days before the scheduled hearing, the hearing panel chair shall hold a conference with the parties, in person or by telephone, to discuss all matters needing attention prior to the hearing date. During the prehearing conference the hearing panel chair may rule on any motions or disputes including motions to exclude evidence, witnesses, or other pretrial evidentiary matters. The parties shall also discuss and determine stipulated exhibits proffered by either bar counsel or respondent, as well as stipulated statement of facts, if any.

Rule 29. Trial Briefs. Each party may submit trial briefs no later than ten (10) days prior to the hearing. The briefs shall be served on the other party and the entire hearing panel.

Rule 30. Conditional guilty plea. At any point prior to the commencement of the formal hearing, respondent can tender a conditional guilty plea in exchange for a stated form of discipline pursuant to SCR 113.

B. HEARINGS

Rule 31. Calendaring. Unless otherwise stipulated to by the parties and approved by the hearing panel chair, or for good cause shown, a formal hearing shall be calendared to commence not later than forty-five (45) days from the date that the remaining panel members are assigned. The hearing panel chair may allow additional time, not to exceed ninety (90) days to conduct the hearing. *See* SCR 105(2)(d).

Rule 32. Location of hearing. The venue shall be the county in which the respondent resides or maintains his or her principal place of business. Hearings will be conducted in the Reno or Las Vegas office of the State Bar unless otherwise ordered by the hearing panel chair upon showing of good cause.

Rule 33. Documentary evidence. Subject to a timely objection pursuant to DRP 34, or as otherwise stipulated to by the parties, any and all reports, documents or other items that would be admitted upon testimony by a custodian of records or other originator such as bank records; public pleadings; State Bar records including but not limited to prior disciplinary history; member service records, correspondence maintained in the office of bar counsel relating to the discipline file; board of continuing legal education records; discipline from other jurisdictions; or any other such items as stipulated to, may be admitted into evidence without necessity of authentication or foundation by a live witness.

Rule 34. Evidentiary objections. On the date of the prehearing conference, the parties shall submit to the hearing panel chair all evidentiary objections to reports, documents or other items proposed to be utilized as evidence and presented to the hearing panel at the time of hearing. Unless an objection is based upon a reasonable belief about its authenticity, the hearing panel chair shall admit the report, document or other item into evidence without requiring authentication or foundation by a live witness.

Rule 35. Form of exhibits. Bar Counsel shall use numerical designations and respondent shall use alphabetical designations. Copies of exhibits must be clearly legible and not unnecessarily voluminous. Original documents must be retained by counsel for introduction as exhibits at the time of a hearing. Exhibits shall be bates numbered in the center bottom. The original exhibits for the court reporter shall be single-sided. The copies for the panel and parties can be double-sided. An original and eight (8) copies shall be brought to the hearing for dissemination to the panel and the other party. The hearing panel chair has discretion to exclude any exhibits not in compliance with these rules.

Rule 36. Stipulated exhibits. The parties may submit stipulated exhibits that may include but is not limited to that evidence referenced in DRP 33. The stipulated exhibits shall be submitted no later than three (3) days before the hearing unless otherwise ordered by the hearing panel chair. These exhibit shall be bates numbered in the bottom center. The original exhibits for the court reporter shall be single-sided. The copies for the panel and parties can be double-sided. An original and eight (8) copies shall be submitted to bar counsel for dissemination to the panel.

Rule 37. Hearing Packets. Hearing packets of the pleadings (i.e. Complaint, Answer, proof of service, default, order appointing panel member, and notice of hearing) will be provided to the panel at least five (5) days prior to the hearing.

Rule 38. Reporting of hearing. All formal hearings shall be reported by a certified court reporter, which costs may be assessed against the respondent pursuant to SCR 120. See SCR 105(2)(g).

C. DECISION

Rule 39. Panel decision. Any five (5) members of the panel shall be a quorum. The hearing panel shall render a written decision within thirty (30) days of the conclusion of the hearing, unless post-hearing briefs are requested by either bar counsel or respondent and allowed by the panel or requested by the chair, in which event the decision shall be rendered within sixty (60) days of the conclusion of the hearing. The decision shall be served pursuant to Rule 109(1), accompanied by the panel's findings and recommendation, all of which shall be filed with bar counsel's office. A decision to impose or recommend discipline requires the concurrence of four (4) members of the panel. At the hearing, the panel will have a verdict form that will include each count of the complaint, alleged rules violations, aggravating and mitigating factors found pursuant to SCR 102.5, discipline recommended, probation and conditions (if any), and shall be signed by the panel chair. This verdict form will be used in preparation of the findings of facts and recommendation.

Rule 40. Costs. Pursuant to SCR 120, an attorney subjected to discipline or seeking reinstatement under these rules may be assessed the costs, in full or in part, of the proceeding, including, but not limited to, reporter's fees, investigation fees, bar counsel and staff's salaries, witness expenses, service costs, publication costs, and any other fees or costs deemed reasonable by the panel and allocable to the proceeding.

V. APPEALS

Rule 41. De Novo review by the Supreme Court.

(a) Time and manner of appeal. A decision of a hearing panel shall be served on the attorney, and service shall be deemed Notice of Entry of Decision for appeal purposes. Except as provided in Rule 105(3)(b), a decision is final and effective thirty (30) days from service,

unless an appeal is taken within that time. To the extent not inconsistent with these rules, an appeal from a decision of a hearing panel shall be treated as would an appeal from a civil judgment of a district court and is governed by the Nevada Rules of Appellate Procedure.

(b) *De novo* review of public discipline. Except for disbarments by consent pursuant to Rule 112 or a public reprimand agreed to in writing by the attorney pursuant to Rule 113, a decision recommending a public reprimand, suspension or disbarment shall be automatically reviewed by the Supreme Court. Review under this paragraph shall be commenced by bar counsel forwarding the record of the hearing panel proceedings to the court within thirty (30) days of entry of the decision. Receipt of the record in such cases shall be acknowledged in writing by the clerk of the Supreme Court.

The attorney and bar counsel shall have thirty (30) days from the date the Supreme Court acknowledges receipt of the record within which to file an opening brief or otherwise advise the court of any intent to contest the hearing panel's findings and recommendations. If an opening brief is filed, briefing shall thereafter proceed in accordance with [NRAP 31\(a\)](#). Extensions of time to file briefs are disfavored and will only be granted upon a showing of good cause. The parties shall not be required to prepare an appendix, but rather shall cite to the record of the disciplinary proceedings. If no opening brief is filed, the matter will be submitted for decision on the record without briefing or oral argument.

VI. REINSTATEMENT-DISCIPLINE.

Rule 42. Reinstatement. Pursuant to SCR 116, an attorney that has been suspended for more than six (6) months may not resume practicing law without an order from the Supreme Court. The burden of proof in a reinstatement hearing is on the petitioner to establish the necessary qualifications for reinstatement.

Rule 43. Receipt of petition. Petitioner shall file with office of bar counsel a petition for reinstatement, along with a \$1,000 deposit for costs. See also DRP 40.

Rule 44. Petition referred to disciplinary board chair and hearing panel chair appointed. Bar counsel shall promptly refer the petition to the disciplinary board chair. Within ten (10) days of receipt of the referral, the disciplinary board chair or vice chair shall appoint a hearing panel chair to preside over the hearing. Within ten (10) days of the appointment of the hearing panel chair, the hearing panel chair shall hold a conference with the parties, in person or by telephone, to discuss all matters needing attention and to schedule the hearing date within sixty (60) days of the date of the referral from the disciplinary board chair.

The hearing panel chair shall hear and decide all motions or stipulations. Further, the hearing panel chair may hold a prehearing conference no later than ten (10) days prior to the hearing to discuss all matters pertaining to the hearing, including exhibits.

Rule 45. Investigation. Bar counsel may conduct investigation on all reinstatement matters that include but not limited to reviewing the initial discipline file, the reinstatement file, contacting Clients' Security Fund (CSF) to determine if any payments have been made and /or grievant who may have been ordered restitution. Bar counsel may also request that petitioner provide within twenty (20) days from service of request specific documentation in connection with their suspension and petition to be reinstated (in scope similar to information requested of new applicants for the bar examination).

Rule 46. Assignment of the remaining panel members. Once a hearing date is chosen by bar counsel, petitioner and the hearing panel chair, the remaining panel shall be appointed by the disciplinary board chair or vice chair.

Rule 47. Notice of Reinstatement Hearing. Bar counsel shall serve a notice of reinstatement hearing on petitioner thirty (30) days before the hearing, if possible.

Rule 48. Reinstatement hearing packets. Bar counsel shall prepare and serve in electronic format a reinstatement packet that consists of petitioner's Petition, accompanying exhibits, and other relevant pleadings (i.e. prior Findings and Order of Discipline, criminal conviction) at least five (5) days prior to the hearing.

Rule 49. Decision. The panel shall make a finding whether petitioner met their burden. If the panel finds that the petitioner did not meet their burden, the petition shall be dismissed. If the panel finds that petitioner did meet their burden, readmission can be conditioned upon payment of costs, restitution to injured parties, including CSF, and any further conditions deemed appropriate by the panel. If petitioner has been suspended for more than five (5) years (regardless of the original term of suspension imposed), successful completion of bar examination shall be a mandatory condition. The Panel's findings and decision shall be filed prior to sixty (60) days from the date of the hearing.

Rule 50. De Novo review by the Supreme Court.

(a) Time and manner of appeal. A decision of a hearing panel shall be served on the attorney, and service shall be deemed Notice of Entry of Decision for appeal purposes.

(b) De novo review. Bar counsel shall file the record of the proceedings, along with the findings and decision within sixty (60) days after the hearing concludes.

The petitioner and bar counsel shall have thirty (30) days from the date the supreme court acknowledges receipt of the record within which to file an opening brief or otherwise advise the court of any intent to contest the hearing panel's findings and recommendations. If an opening brief is filed, briefing shall thereafter proceed in accordance with NRAP 31(a). Extensions of time to file briefs are disfavored and will only be granted upon a showing of good

cause. The parties shall not be required to prepare an appendix, but rather shall cite to the record of the disciplinary proceedings. If no opening brief is filed, the matter will be submitted for decision on the record without briefing or oral argument.

VII. REINSTATEMENT-DISABILITY.

Rule 51. Reinstatement. Pursuant to SCR 117, an attorney that has been transferred to disability inactive status may not resume active status until reinstated by order of the Supreme Court. The burden of proof in a disability reinstatement hearing is on the petitioner to establish by clear and convincing evidence that the attorney's disability has been removed and they are fit to resume the practice of law. Attorney shall be entitled to petition for reinstatement once a year or at such shorter intervals as the court may direct in the order transferring the attorney to disability inactive status.

Rule 52. Receipt of petition. Petitioner shall file with office of bar counsel a petition for reinstatement.

Rule 53. Petition referred to disciplinary board chair and hearing panel chair appointed. Bar counsel shall promptly refer the petition to the disciplinary board chair. Within ten (10) days of receipt of the referral, the disciplinary board chair or vice chair shall appoint a hearing panel chair to preside over the hearing. Within ten (10) days of the appointment of the hearing panel chair, the hearing panel chair shall hold a conference with the parties, in person or by telephone, to discuss all matters needing attention and to schedule the hearing date.

The hearing panel chair shall hear and decide all motions or stipulations. Further, the hearing panel chair may hold a prehearing conference no later than ten (10) days prior to the hearing to discuss all matters pertaining to the hearing, including exhibits.

Rule 54. Waiver of Privilege and Disclosure. The filing of the petition waives any doctor-patient privilege. The attorney shall be required to disclose the name of every treatment provider by whom or in which the attorney has been examined or treated since being transferred to disability inactive status, and the attorney shall furnish every treatment provider's written consent to divulge such information and records as requested by the Supreme Court, appointed medical experts, office of bar counsel or hearing panel.

Bar counsel may also conduct an investigation on the initial disability, contact CSF to determine if payments have been made to any victims while petitioner was placed on disability inactive status, and if any petitioner made any restitution payment to CSF.

Rule 55. Assignment of the remaining panel members. Once a hearing date is chosen by bar counsel, petitioner and the hearing panel chair, the remaining panel shall be appointed by the disciplinary board chair or vice chair.

Rule 56. Notice of Reinstatement Hearing. Bar counsel shall serve a notice of reinstatement hearing on petitioner thirty (30) days before the hearing, if possible.

Rule 57. Reinstatement hearing packets. Bar counsel shall prepare and serve in electronic format a reinstatement packet that consists of petitioner's Petition, accompanying exhibits, and other relevant pleadings (i.e. prior Findings and Order of Discipline, criminal conviction) at least five (5) days prior to the hearing.

Rule 58. Decision. The Panel shall make a finding whether petitioner met their burden. If the panel finds that the petitioner did not meet their burden, the petition shall be dismissed. If the panel finds that petitioner did meet their burden, the panel may direct that the attorney establish competence and learning in law, including certification by the bar examiners that they attorney successfully completed an examination for admission to practice subsequent being transferred to disability inactive status. The Panel's findings and decision shall be filed thirty (30) days after the hearing's conclusion.

Rule 59. De Novo review by the Supreme Court.

(a) **Time and manner of appeal.** A decision of a hearing panel shall be served on the attorney, and service shall be deemed Notice of Entry of Decision for appeal purposes.

(b) **De novo review.** Bar counsel shall file the record of the proceedings, within thirty (30) days of the decision's entry.

The petitioner and bar counsel shall have thirty (30) days from the date the supreme court acknowledges receipt of the record within which to file an objection to the panel's recommendation. If none is filed, then the matter shall be submitted for decision.

If the Supreme Court concludes that the attorney's disability has been removed and that the attorney is fit to practice law, then the Supreme Court may reinstate the attorney to active status, with any conditions that may be appropriate to protect the attorney's clients or the public.

If the Supreme Court concludes that the attorney's disability has not been removed, then it may take such action as it deems appropriate, including denying the petition.

Rule 60. Resumption of Discipline Proceedings. If any disciplinary proceeding against the attorney was suspended by the attorney's transfer to disability inactive status, the Supreme Court may direct the State Bar to resume the disciplinary proceedings.

VIII. FORMS

Form 1. Verdict Form -- TO BE SUPPLEMENTED