



DISCIPLINARY RULES OF PROCEDURE

As Amended and Adopted by the Board of Governors

June 28, 2017

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 these 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 (SCR), 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 Disciplinary 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. In their administrative roles as the Disciplinary Board Chair and Vice Chair, they shall designate Panel Chairs and Panels for screenings and hearings. Panel Chairs shall be designated on a rotating basis subject to availability. Remaining Panel Members shall be designated on random a basis subject to availability. *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. The Disciplinary Board 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, except motions filed pursuant to DRP 15 and DRP 13(b), if appropriate.

(a) Assignment of Hearing Panel Chair. Within thirty (30) calendar 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 based on availability, by the Disciplinary Board Chair or Vice Chair after consideration of peremptory challenges (*see* DRP 13) and exclusion of Screening Panel Members who reviewed bar counsel’s recommendation on a grievance.

(b) Re-assignment of Hearing Panel Chair. Failing to meet deadlines as proscribed in the Supreme Court Rules or the DRPs may be regarded as grounds for removal of the Hearing Panel Chair and re-assignment to another Hearing Panel Chair upon written request by a party, made to the Disciplinary Board Chair or Vice Chair. A petition made pursuant to this rule does not suspend any other pending deadlines in the proceeding.

Rule 5. Remaining Hearing Panel Members. All hearings shall be conducted before a three (3) 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, within forty-five (45) calendar days of the hearing date. The selection of the remaining Hearing Panel Members will be assigned on a random basis, based on their availability for the hearing date and in accordance with the processes detailed in DRP 4 above.

(b) Substitute Panel Members. In the event of a conflict with, or challenge to, a selected Panel Member, the Disciplinary Board Chair or Vice Chair may make an *ad hoc* substitute appointment to replace the conflicted Panel Member.

II.

SCREENINGS

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 may designate screening Panel Members up to six months in advance.

(b) Frequency of the Screenings. The screenings will be conducted twice per month.

(c) Variation. The Disciplinary Board Chair, in consultation with bar counsel, may reduce the frequency of screenings as the volume of investigations may dictate.

Rule 7. Screenings. Bar counsel and designated support staff shall be present at the screening.

(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) Screening Materials. The screening materials shall consist of all matters to be screened, with bar counsel's summary and recommendation. Screening materials will be provided in electronic format to the Screening Panel no less than three (3) judicial days before a screening hearing. The screening materials are confidential and not discoverable in any matter that proceeds to hearing after the Screening Panel's decision.

Rule 8. Decision of the Screening Panel. After reviewing the summary and 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 limited to:

(a) Hold the matter over for further investigation;

(b) Dismiss with or without prejudice;

(c) Refer the attorney to diversion or mentoring, pursuant to SCR 105.5, with or without designating an alternate consequence;

(d) Direct a Letter of Caution be 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) Issue a Letter of Reprimand, with or without conditions, including but not limited to, restitution, a fine of up to \$1,000, and costs as mandated by SCR 120. The Screening Panel Chair shall sign the Letter of Reprimand;

(f) Direct bar counsel to file a written Complaint for formal hearing;

(g) In accordance with SCR 111, the Screening Panel Chair may 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.

Rule 9. Appeal of Letter of Reprimand. Bar counsel shall notify Respondent in writing of a decision by a Screening Panel to issue a Letter of Reprimand in accordance with SCR 105(b).

The Respondent shall have fourteen (14) calendar days after receipt of the Notice within which to serve on bar counsel written objections to the issuance of a Letter of Reprimand, along with the basis of the objections. Upon receipt by bar counsel of written objections to the issuance of a Letter of Reprimand within the time prescribed, the matter shall be set for hearing in accordance with SCR 105(2).

III.

DISCIPLINARY HEARINGS

Rule 10. Disciplinary Hearings. Disciplinary hearings apply to: (1) matters so voted by a Screening Panel, (2) Respondents who object to a Letter of Reprimand, and (3) convictions for serious crimes following temporary Suspension. See SCR 102; 105(1)(a)

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

Rule 11. Filing and Service of Documents.

(a) **Filing.** All documents are to be filed with the Office of Bar Counsel, unless otherwise specified by Supreme Court Rule. Documents to be filed before the Northern Disciplinary Board shall be filed with the Reno office. Documents to be filed before the Southern Disciplinary Board shall be filed with the Las Vegas office.

(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 (SCR 79) address shown in the State Bar's records, or Respondent's last known address. See SCR 109.

(2) **Answer.** Respondent shall serve an **original verified** answer on bar counsel by hand-delivery to the Office of Bar Counsel or via certified U.S. mail. Electronic service is acceptable only by prior stipulation.

(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 12. 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 within twenty (20) calendar days of service. See SCR 105(2).

Rule 13. Notice of Members of Disciplinary Board. The Complaint shall be accompanied by the list of members of the appropriate Disciplinary Board (“Designation of Hearing Panel Members”). The names of the Screening Panel Members that heard bar counsel’s recommendation shall be stricken.

(a) Peremptory Challenges. Prior to the filing of a response to the Complaint, bar counsel and Respondent may exercise five (5) peremptory challenges each to the people listed on the Designation of Hearing Panel Members. Peremptory Challenges do not disqualify the Disciplinary Board Chair or Vice Chair in their administrative roles. The peremptory challenges shall be delivered to the Office of Bar Counsel. If a Notice of Intent to Proceed on a Default Basis is filed and served prior to the exercise of any party’s peremptory challenges, then that party has waived the opportunity to exercise any peremptory challenges.

(b) Challenges for Cause. A challenge of any assigned Hearing Panel member for cause under SCR 103(7) shall be made by motion 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 Hearing Panel 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. A motion challenging a Hearing Panel member for cause must be filed within ten (10) judicial days after the member is appointed or the party receives notice of the grounds for disqualification, whichever occurs later. Any response to the motion shall be filed no more than ten (10) judicial days after the motion is filed. There shall not be any reply filed and the matter shall be submitted to the Hearing Panel Chair, or if the challenge is to the Hearing Panel Chair, then the Disciplinary Board Chair. Any challenge that is not raised in a timely manner shall be deemed waived.

Rule 14. Verified Response or Answer. Respondent shall file a verified response or answer and serve it on bar counsel within twenty (20) calendar 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 such 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 defenses.

(a) Extension of time to file Answer. The time to respond to the Complaint may be extended once by the Disciplinary Board Chair or Vice Chair, or Hearing Panel Chair (if appointed) for not more than twenty (20) calendar days for good cause or upon stipulation of the parties. See SCR 105(2).

(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) judicial days. If Respondent fails to file a verified answer, then bar counsel shall file a motion to strike.

(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) calendar days from the date of filing the Notice. A copy of the Complaint and Designation of Hearing Panel Members 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 15. Motions to Dismiss or For More Definite Statement. Separate from a verified response or answer, Respondent may file a motion to dismiss all or part of the Complaint or a motion for more definite statement. Such motion must be filed and served within twenty (20) calendar days of service of the formal Complaint and assert all available basis for dismissal of the allegations in the Complaint, such as those listed in NRCP 12(b). A failure to assert all available basis in one motion shall be deemed a waiver of any unasserted defenses, absent good cause shown for the failure.

(a) Any and all motions filed pursuant to this Rule shall be decided by the Disciplinary Board Chair, or Vice Chair if the Chair is unavailable, even if a Hearing Panel Chair has already been appointed.

(b) All responses to motions filed pursuant to this Rule must be filed and served ten (10) judicial days after the motion is filed.

(c) There shall be no replies filed, absent good cause shown.

(d) If any document, referenced in this Rule, is filed via U.S. Mail only, then the responding party shall have three (3) additional calendar days to respond to the document.

(e) After the time for briefing has expired, the hearing administrator shall electronically submit all related briefs to the Disciplinary Board Chair or Vice Chair.

(f) Absent good cause shown, all motions shall be considered and ruled upon within twenty (20) calendar days of submission of the documents.

Rule 16. Motions or Stipulations; Rulings to be Written and Filed. The Hearing Panel Chair, if appointed, shall hear and decide all motions or stipulations, except motions filed pursuant to Rule 13(b), if appropriate, and Rule 15. 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.

(a) All motions filed pursuant to this Rule, absent good cause shown, must be filed and served no later than forty-five (45) calendar days before the prehearing conference.

(b) All responses to motions filed pursuant to this Rule must be filed ten (10) judicial days after the motion is filed.

(c) All replies in support of motions filed pursuant to this Rule must be filed five (5) judicial days after the response is filed.

(d) If any document, referenced in this Rule, is served via U.S. Mail only, then the responding party shall have three (3) additional calendar days to respond to the document.

(e) After the time for briefing has expired, the hearing administrator shall electronically submit all related briefs to the Hearing Panel Chair.

(f) Absent good cause shown, all motions and stipulations shall be considered and ruled upon within fifteen (15) calendar days of submission of the documents to the Hearing Panel Chair.

Rule 17. Initial Conference With the Hearing Panel Chair. Within thirty (30) calendar 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.

(a) **Disclosure of Witnesses and Documents.** Bar counsel shall disclose its witnesses and documents no later than five (5) judicial days after the initial case conference. Respondent shall disclose all witnesses and documents no later than fifteen (15) calendar days after the initial case conference. Respondent and bar counsel will disclose and exchange final witness and document lists thirty (30) calendar days prior to the hearing.

(1) **Bates Numbering.** All disclosed documents shall be provided and identified with bates-numbering.

(2) **Witness Designations.** All identifications of witnesses shall include a summary of the subjects to which the witness is expected to testify.

(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. The parties may stipulate to engage in a settlement conference before a licensed Nevada attorney who has not participated in a Disciplinary Board.

Rule 18. 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 SCR 121. See SCR 110(8).

Rule 19. 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 20. Assignment of Remaining Hearing Panel Members. Once the formal hearing date and time is confirmed by bar counsel, Respondent and the Hearing Panel Chair, then the remaining Panel members will be appointed. The hearing shall be conducted within forty-five (45) calendar days of the appointment of the remaining Panel members.

Rule 21. Notice of Formal Hearing, Designation of Witnesses and Exhibits. Bar counsel shall give the Respondent at least thirty (30) calendar days' written notice of the hearing date, time and place. The notice shall be served in the same manner 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) judicial days prior to the hearing. Respondent will also disclose its final list of witnesses and documents thirty (30) calendar days prior to the hearing. *See SCR 105(2)(d).*

Rule 22. Objections to Witnesses and Documents. Bar counsel and Respondent shall submit, in writing, all objections to the final list of witnesses and documents to the Hearing Panel Chair at least five (5) judicial days prior to the prehearing conference. Objections will be argued and considered at the prehearing conference, and may be ruled on by the Hearing Panel Chair at the time of the prehearing conference.

Rule 23. Prehearing Conference. No later than ten (10) judicial 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 objections to the final list of witnesses and documents and any other 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 a stipulated statement of facts, if any.

Rule 24. Trial Briefs. Each party may submit trial briefs no later than ten (10) judicial days prior to the hearing. The briefs shall be served on the other party and the entire Hearing Panel.

Rule 25. 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 26. 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) calendar days from the date that the remaining Panel members are assigned. The Hearing Panel Chair may allow additional time, not to exceed ninety (90) calendar days to conduct the hearing. *See SCR 105(2)(d).*

Rule 27. 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 28. Documentary Evidence. Subject to a timely objection pursuant to DRP 22, 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 29. 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 30. 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 of each page. 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 five (5) 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 31. Stipulated Exhibits. The parties may submit stipulated exhibits to the Panel that may include but are not limited to that evidence referenced in DRP 21. The stipulated exhibits shall be submitted no later than five (5) judicial days before the hearing unless otherwise ordered by the Hearing Panel Chair. These exhibits shall be bates numbered in the bottom center of each page. 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 five (5) copies shall be submitted by Respondent to bar counsel for dissemination to the Panel.

Rule 32. Hearing Packets. Hearing packets of the pleadings (i.e. Complaint, Answer, proof of service, default, order appointing Panel Members, and notice of hearing) will be provided to the Panel at least five (5) judicial days prior to the hearing.

Rule 33. Reporting of Hearing. All formal hearings shall be reported by a Certified Court Reporter, which costs shall be assessed against the Respondent pursuant to SCR 120. See SCR 105(2)(g).

C. DECISIONS

Rule 34. Panel Decision.

(a) Rendering of Decision. The Hearing Panel shall render a written decision within thirty (30) calendar days of the conclusion of the hearing. If post-hearing briefs are allowed by the Panel or ordered by the Hearing Panel Chair pursuant to a request from either party, in which event the decision shall be rendered within sixty (60) calendar days of the conclusion of the hearing. A decision to impose or recommend discipline as defined in SCR 102 requires the concurrence of two (2) members of the Panel.

(b) Contents of Decision. The decision shall be signed by the Panel Chair and include findings of fact; conclusions of law; statement of rule violations for each count; findings of aggravating and mitigating factors as set forth in SCR 102.5; and recommended discipline including terms of probation or conditions, if applicable. The written decision is to include such analysis as is necessary to support the recommended discipline based upon the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the applicable aggravating or mitigating factors as provided in the American Bar Association Standards for Imposing Lawyer Sanctions.

(c) Filing and service. The decision shall be filed with the Office of Bar Counsel and served pursuant to SCR 109(1).

Rule 35. Costs. Pursuant to SCR 120, an attorney subjected to discipline under these rules shall be assessed the actual costs, in full or in part, of the proceeding, including, but not limited to, reporter's fees, investigation fees, witness expenses, service costs, publication costs, and any other fees or costs deemed reasonable by the Panel and allocable to the proceeding. In addition, an attorney subjected to discipline shall be assessed administrative costs allocable to the proceeding as set forth in SCR 120.

IV.

APPEALS

Rule 36. Review by the Supreme Court.

(a) Time and manner of appeal. A decision of a Hearing Panel shall be served on Respondent as provided in SCR 105 (3)(a) and service shall be deemed Notice of Entry of Decision for appeal purposes. Except as provided in SCR 105(3)(b), a decision is final and effective thirty (30) calendar 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) Review of public discipline. Except for Disbarment by consent pursuant to Rule 112, or a Public Reprimand agreed to in writing by the Respondent 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) calendar 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.

(c) Briefing. The Respondent and bar counsel shall have thirty (30) calendar 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.

V.

REINSTATEMENT-DISCIPLINE

Rule 37. 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 38. Receipt of Petition. Petitioner shall file with the Office of Bar Counsel a petition for reinstatement, along with a \$1,000 deposit for costs.

Rule 39. 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) judicial 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) judicial 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) calendar 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) judicial days prior to the hearing to discuss all matters pertaining to the hearing, including exhibits.

Rule 40. Investigation. Bar counsel may conduct investigation on all reinstatement matters to include but not be 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 contacting a grievant who may have been ordered to receive restitution. Bar counsel may also request that Petitioner provide within twenty (20) calendar days from service of the 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 41. Assignment of the Remaining Panel Members. Once a hearing date is chosen by bar counsel, Petitioner and the Hearing Panel Chair, the remaining Panel Members shall be appointed by the Disciplinary Board Chair or Vice Chair.

Rule 42. Notice of Reinstatement Hearing. Bar counsel shall serve a notice of reinstatement hearing on Petitioner thirty (30) calendar days before the hearing, if possible.

Rule 43. 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) judicial days prior to the hearing.

Rule 44. Decision. The Hearing Panel shall make a finding, by majority vote, 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 shall be conditioned upon payment of costs, restitution to injured parties, including CSF, payment of costs assessed in prior proceedings, 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 written findings and decision shall be filed prior to sixty (60) calendar days from the date of the hearing.

Rule 45. Reinstatement Costs. Pursuant to SCR 120, an attorney seeking reinstatement under these rules shall be assessed the actual costs, in full or in part, of the proceeding, including, but

not limited to, reporter's fees, investigation fees, witness expenses, service costs, publication costs, and any other fees or costs deemed reasonable by the Panel and allocable to the proceeding. In addition, an attorney seeking reinstatement shall be assessed administrative costs allocable to the proceeding as set forth in SCR 120.

Rule 46. 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) Review. Bar counsel shall file the record of the proceedings, along with the findings and decision within sixty (60) calendar days after the hearing concludes. The Petitioner and bar counsel shall have thirty (30) calendar 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.

(c) Briefing. 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-DISABILITY

Rule 47. 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 48. Receipt of Petition. Petitioner shall file with the Office of Bar Counsel a petition for reinstatement.

Rule 49. 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) judicial 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) judicial 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) judicial days prior to the hearing to discuss all matters pertaining to the hearing, including exhibits.

Rule 50. 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 51. Assignment of the Remaining Panel Members. Once a hearing date is chosen by bar counsel, Petitioner and the Hearing Panel Chair, the remaining Panel Members shall be appointed by the Disciplinary Board Chair or Vice Chair.

Rule 52. Notice of Reinstatement Hearing. Bar counsel shall serve a notice of reinstatement hearing on Petitioner thirty (30) calendar days before the hearing, if possible.

Rule 53. 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) judicial days prior to the hearing.

Rule 54. Decision. The Hearing Panel shall make a finding, by majority vote, whether Petitioner met the burden of proof. If the Panel finds that the Petitioner did not meet the burden, the petition shall be dismissed. If the Panel finds that Petitioner did meet the burden, the Panel may direct that the attorney establish competence and learning in law, including certification by the bar examiners that the attorney successfully completed an examination for admission to practice subsequent to being transferred to disability inactive status. The Panel's written findings and decision shall be filed no later than thirty (30) calendar days after the hearing's conclusion.

Rule 55. 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) Review. Bar counsel shall file the record of the proceedings, within thirty (30) calendar days of the decision's entry. The Petitioner and Bar counsel shall have thirty (30) calendar 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.

(c) Briefing. 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 56. 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.