

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 85, 87 AND 89]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 59; Doc. Nos. R-134 and R-135

The Rules of Organization and Procedure of the Board have been drafted to restate in full the substance of the Pennsylvania Rules of Disciplinary Enforcement. By two Orders dated September 19, 2003, the Supreme Court of Pennsylvania amended Pa.R.D.E. 203(b), 207(b), 208(b) and 218(c). By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, such proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(10), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

*By The Disciplinary Board of the Supreme Court of Pennsylvania*

ELAINE M. BIXLER,  
*Executive Director and Secretary*

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

##### CHAPTER 85. GENERAL PROVISIONS

##### § 85.7. Grounds for discipline.

\* \* \* \* \*

(b) Enforcement Rule 203(b) provides that the following shall also be grounds for discipline:

\* \* \* \* \*

(4) Failure by a respondent-attorney without good cause to comply with any order under the Enforcement Rules of the Supreme Court, the Board, a hearing committee or special master.

\* \* \* \* \*

#### CHAPTER 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

##### Subchapter A. PRELIMINARY PROVISIONS

##### COMPLAINTS

##### § 87.7. Notification to respondent-attorney of complaint.

(a) *General rule.* Enforcement Rule 207(b)(2) provides that except in matters requiring dismissal because the complaint is frivolous or falls outside the jurisdiction of the Board, no disposition shall be recommended or undertaken by Disciplinary Counsel until the accused attorney [ shall have been afforded the opportunity to state a position with respect to the allegations against the attorney ] has been notified of the allegations and the time for response under § 89.54 (relating to answer), if applicable, has expired.

\* \* \* \* \*

#### CHAPTER 89. FORMAL PROCEEDINGS

##### Subchapter B. INSTITUTION OF PROCEEDINGS

##### § 89.53. Service of petition on respondent-attorney.

Enforcement Rule 208(b)(2) provides that a copy of the petition for discipline shall be personally served upon the respondent-attorney. Service shall be effected by the Office of Disciplinary Counsel. The service copy of the petition shall be endorsed with a notice to [ answer ] plead within 20 days after service of the petition.

##### § 89.54. Answer.

\* \* \* \* \*

(d) *Effect of failure to answer.* Enforcement Rule 208(b)(3) provides [ that in the event the respondent-attorney fails to file an answer, the charges shall be deemed at issue ] any factual allegation that is not timely answered shall be deemed admitted.

##### Subchapter C. HEARING PROCEDURES

##### HEARING

##### § 89.93. Presentation by the parties.

\* \* \* \* \*

(c) *Exclusion of expert evidence.* The hearing committee or special master may exclude the introduction of expert testimony or reports as to which a party has failed to comply with an order under §§ 89.72(4) (relating to subjects which may considered at conferences to expedite hearings) or 89.74(a) (relating to authority of hearing committee member or special master at conferences).

(d) **Exclusion of factual evidence.** Enforcement Rule 208(b)(4) provides that no evidence with respect to factual allegations of the complaint that have been deemed or expressly admitted may be presented at any hearing on the matter, absent good cause shown. See § 89.54(d) (relating to effect of failure to answer).

**Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE**

**REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS**

**§ 89.273. Procedures for reinstatement.**

(a) *General rule.* Enforcement Rule 218(c) and (d) provide that:

\* \* \* \* \*

(2) **Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy of the formerly admitted attorney.** Upon receipt of the [ petition ] response, the Board shall refer the petition and response to a hearing committee in the disciplinary district in which the [ respondent-attorney ] formerly admitted attorney maintained an office at the time of the disbarment, suspension or transfer to inactive status. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

**Official Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.**

\* \* \* \* \*

[Pa.B. Doc. No. 04-288. Filed for public inspection February 20, 2004, 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**BEAVER COUNTY**

**Offender Supervision Fee; No. 58 Misc. 1991**

**Order**

Pursuant to 18 P.S. § 11.1102, the Offender Supervision Fee is increased from \$25.00 to \$50.00 which sum shall be assessed each month against all offenders placed on probation, parole, accelerated rehabilitative disposition, probation without verdict and intermediate punishment. The increase shall be effective March 1, 2004 and shall be assessed by the Clerk of Courts against all such offenders after that date. Offenders whose disposition

orders were entered prior thereto shall continue to be assessed an Offender Supervision Fee of \$25.00 per month.

*By the Court*

ROBERT E. KUNSELMAN,  
*President Judge*

[Pa.B. Doc. No. 04-289. Filed for public inspection February 20, 2004, 9:00 a.m.]

**SUPREME COURT**

**Schedule of Holidays for Year 2005 for Staffs of the Appellate Courts and the Administrative Office of Pennsylvania Courts; No. 261 Judicial Administration; Doc. No. 1**

**Order**

*Per Curiam:*

*And Now,* this 6th day of February, 2004, it is hereby ordered that the following paid holidays for calendar year 2005 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

|                   |                             |
|-------------------|-----------------------------|
| December 31, 2004 | New Year's Day (Observed)   |
| January 17, 2005  | Martin Luther King, Jr. Day |
| February 21, 2005 | Presidents' Day             |
| March 25, 2005    | Good Friday                 |
| May 30, 2005      | Memorial Day (Observed)     |
| July 4, 2005      | Independence Day            |
| September 5, 2005 | Labor Day                   |
| October 10, 2005  | Columbus Day (Observed)     |
| November 8, 2005  | Election Day                |
| November 11, 2005 | Veterans Day                |
| November 24, 2005 | Thanksgiving Day            |
| November 25, 2005 | Day After Thanksgiving      |
| December 26, 2005 | Christmas Day (Observed)    |

[Pa.B. Doc. No. 04-290. Filed for public inspection February 20, 2004, 9:00 a.m.]

**Sessions of the Supreme Court of Pennsylvania for the Year 2005; No. 148 Appellate Court Rules; Doc. No. 1**

**Order**

*Per Curiam:*

*And Now,* this 6th day of February, 2004, it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2005 as follows:

|                                          |             |
|------------------------------------------|-------------|
| Pittsburgh<br>(Administrative Session)   | January 6   |
| Philadelphia<br>(Administrative Session) | February 10 |

|                                        |                                      |
|----------------------------------------|--------------------------------------|
| Pittsburgh                             | March 7 through March 11             |
| Philadelphia                           | April 11 through April 15            |
| Harrisburg                             | May 16 through May 20                |
| Pittsburgh<br>(Administrative Session) | June 2                               |
| Pittsburgh                             | September 12 through<br>September 16 |
| Philadelphia                           | October 17 through<br>October 21     |
| Harrisburg                             | December 5 through<br>December 9     |

Additional argument/administrative sessions may be scheduled as the Court deems necessary.

[Pa.B. Doc. No. 04-291. Filed for public inspection February 20, 2004, 9:00 a.m.]

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